Xenophon. Respublica Atheniensium

The Old Oligarch; being the Constitution of the Athenians

E OLD OLIGARCH

G THE CONSTITUTION OF THE NIANS ASCRIBED TO XENOPHON

Translated with an Introduction by
JAMES A. PETCH, M.A.

BASIL BLACKWELL
OXFORD

One Shilling and Sixpence net

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INTRODUCTION

The *Constitution of the Athenians* ascribed to Xenophon in antiquity furnishes certain internal evidence for determining the date of its composition. The tenour of the whole work, and particularly of *c.* II, makes it evident that it was composed at a time when the Athenian naval power was at its height. That it belongs to the period of the First Athenian Empire may be inferred from the use of the word φόρος for the contribution of the allies, and from the statement that the allies had to come to Athens for legal business. Thus the work is anterior to the Peace of Lysander (404 B.C.). Further no mention is made of the Sicilian Expedition of 415-3, mention of which would almost certainly have been made in any account, whether friendly or hostile, of the Athenian democracy, if such account were consequent to that grandiose failure; indeed *c.* II, 5 could hardly have been written after that event if the writer made any claim to exactitude. It has been argued that the date may be placed still earlier; thus Roscher argued that *c.* II, 5 must have been written before the expedition of Brasidas in 424. Further it has been held that *c.* II, 18 can be applicable only to the interval between the production of the *Babylonians* of Aristophanes in 426 and that of the *Knights* two years later, but this is not at all certain, for the whole of the passage concerned breathes of partizan exaggeration. The passage taken by Roscher as fixing the *terminus ante* (*c.* II, 5) also suggests a possible *terminus post,* for the Aetolian expedition of

Demosthenes in 426 was a gross enough failure to point to the conclusion that 'the land power cannot undertake a march of many days away from their own country,' the expedition of Brasidas sufficiently successful to suggest that this work may have been written before that event.[1] While therefore it may be taken as almost certain that it was composed before the failure of the Sicilian Expedition, there is only probability to support the closer dating to the period 426-4.

The problem of authorship is even more obscure. If this document were, as tradition asserts, a composition of Xenophon, he must have written it before he was eighteen years of age at the most, for he was born in 430 B.C.; but the style, the language and the political experience revealed allow the definite assertion that the tradition is wrong. Who then was the author? There have been more claimants than one suggested, the most favoured perhaps being Alcibiades and Critias. According to Xenophon 'Critias was most deeply imbued with hatred of the commons'.[2] The moderate attitude taken up in the first paragraph of the *Constitution* suggests that it might well be a criticism of Critias' strictures. As for Alcibiades, would he even in 426-4 have written *c.* II, 20? Attempts to fasten the work upon some name or other are unavailing. Of the identity of the author we know no more than we know of the chances which caused the work to be included among the writings of Xenophon; of the

[1] Although Thucydides (iv, 78, 2-5) shows that Brasidas did win his way through Thessaly by conciliatory methods, this perhaps ought not to be stressed, though it does suggest the advisability of not attempting to limit the date too definitely.

[2] *Hell.* II, 3, 47.

author's personality, beliefs and ability something can be gathered.

It is clear from the very first that we have to deal with one who is no democrat (*c.* I, 1), and the admission of adherence to the anti-democratic cause is repeatedly reinforced by the nature of his references to his political opponents and friends (*e.g.*, *c.* I, 5). Hence the name of 'The Old Oligarch,' with which title our ignorance of the identity of the author has to be content. That the Old Oligarch was an Athenian citizen seems to be probable from the use of 'we' in *c.* I, 12, and though certainty is precluded on this point by the curious confusion of persons in *c.* I, 11, the full acquaintance of the writer with the Athenian constitution may support the conclusion. *C.* II, 7-8 and 11-12 have been taken as proof that the Old Oligarch was a merchant, and while once again it is doubtful if much stress can be laid upon 'my' (*c.* II, 11), which may be merely rhetorical, the inference may gain support from the mercantile and geographical knowledge displayed in these passages, though it is difficult to point out anything in them which an ordinarily intelligent Athenian might not have thought out for himself. That he was absent from Athens when he wrote has been inferred from his frequent use of αὐτόθι, 'there,' and from his references to the Athenians and to the oligarchs in the third person, but here again it has been suggested that these latter uses would be explained if this is an oration delivered to a political club in session at Athens, under which circumstances such an orientation would not be irrational.

The style of the Old Oligarch is uneven, frequently involved and obscure, more rarely forceful, incisive and

sarcastic. Questions of style however, save in so far as they might bear upon the question of authorship, are of little interest beside the contents of the treatise. Here a word of warning is imperative. At first sight it might seem that, damning with feigned praise, the Old Oligarch throws into the highest relief all the shortcomings and excesses of the Athenian democracy. 'The City Beautiful' is, it might be thought, brushed aside after providing an opportunity for a sneer at the grasping commons. Thus instead of seeing in Athens the School of Greece, the Old Oligarch would expose her as the home of litigation and sheer self-seeking, the city of men with muck-rakes. The modern reader may be shocked by the callousness imputed to the Athenian democracy in its endeavours to achieve the welfare and the prosperity of the commons. There is nothing here of abstract Justice, Truth and Equity; Liberty would be the opportunity to do ill, Equality the partizan sharing of the fruits of tyrannic power, Fraternity the pampering of slaves and aliens for the material benefit of the citizens. But it will be obvious that to read such a meaning into the Old Oligarch would be to view him in the light at least of the ideals of modern politics. The Melians, according to Thucydides,[3] were bidden by the Athenians 'to let right alone and talk only of interest'; just so the Old Oligarch discusses not the morality but the expediency of the policy of the Athenian democracy.

The answer of the democrats must be looked for elsewhere. Herodotus[4] had already mentioned briefly some of the charges brought against democracy—love of slander

[3] V, 90 (trs. Crawley).

[4] III, 80-2.

and tale-bearing, ignorance, and the immunity afforded to crime—and provided an equally brief defence, but passages in Thucydides suggest arguments which the democratic contemporaries of the Old Oligarch might have employed in answering such criticisms as are to be found in him, even if they did not actually do so; thus there is the justification of the judicial system of the empire,[5] even the justification of the number of feasts observed at Athens,[6] while the Funeral Oration of Pericles[7] presents the ideal view of democracy. Such complementary passages however are not numerous or individual enough to prove that the Old Oligarch and Thucydides were acquainted either personally or through their respective writings, and that in such passages there is a conscious reference by one writer to the other. In modern times Grote, among many others, has openly contested the verdicts of the Old Oligarch; thus with reference to the Athenian courts he concludes that 'All the encomiums which it is customary to pronounce upon jury-trial, will be found predicable of the Athenian dikasteries in a still greater degree: all the reproaches, which can be addressed on good ground to the dikasteries, will apply to modern juries also, though in a less degree.'[8]

Mention has already been made of Kalinka's suggestion that this work is part of a discussion which took place before one of the oligarchical clubs which at the end of the

[5] I, 77, 1-5.

[6] II, 38.

[7] II, 35-46.

[8] *History of Greece,* V, pp. 517-8; *cf.* VI, 51 *seq.* For his criticism of the charge of judicial corruption, *vide* V, 510, *note.*

fifth century were of growing importance in Athens. This is the extempore answer, it is suggested, to a previous attack by an ardent hater of the Athenian democracy. He who made the answer took as his objective the demonstration that after all, however hateful democracy might be to the oligarchs, in its Athenian form it was efficient for certain ends. Such a suggestion would explain in some measure the incompleteness, the lack of close reasoning and the tendency to wander from the point that some critics have thought to find. It surely must however be remembered that there is no reason to suppose that Greek politicians were any less averse to the strictly unnecessary or more confined by the strictly relevant than are modern politicians. Political tracts, addresses, expressions of political thought in general are not to-day conspicuously coherent, logical or well pondered. What is sought is a means to enflame for the moment, not a work of reference for perpetuity. In spite therefore of these common criticisms of the Old Oligarch, the charge of incompleteness even having led to the assumption that there must be several extensive *lacunae* in the received text in which originally such questions as state pay were more adequately dealt with, there seems to be little that one could legitimately demand in ' completion ' of the work when its aim as laid down in the first section is borne in mind. The Old Oligarch makes out a fair case for his original point and that must suffice. His *Constitution* is manifestly not the work of an Aristotle. Further at no place is there anything like a complete break in thought. It is easy to err in considering such a work by entertaining too great expectations. Whoever the author was, he is not to be compared with his con-

temporary Thucydides or with his predecessor Herodotus. What would be faulty in a Thucydides must be allowed to lesser men than he. Through some chance we have from the past this partizan, contentiously political document, whether it be debating speech or political pamphlet. As such it is foolish to expect too much from it. Once but little is expected its real worth and interest will be apparent, for it 'affords us a refreshing and direct glimpse of the life of Athens at that period and of the activity of her domestic and foreign politics.' Indeed Murray describes the document as 'priceless,' and remarks that 'If only we had a hundred pages of such matter as this instead of thirteen, our understanding of Athenian history would be a more concrete thing than it is.'

For the most part the Old Oligarch speaks of 'the people,' 'the commons,' but rarely of 'the popular party' or 'the democrats.' On the other hand his term for his own party, *οἱ χρηστοί*, which, as well as meaning 'my friends,' signifies goodness or usefulness from the conservative standpoint, may be misleading unless it is remembered that the 'goodness' of these 'good citizens,' like the excellence of the 'best element,' was as controversial as might be the 'liberality' of modern Liberals. It is hardly likely that the democrats ever adopted as a party name the title 'rascals,' *οἱ πονηροί*, and so anticipated the Whigs of our own history. Out of a too literal interpretation of political epithets would arise hopeless misunderstanding.

The best edition is that of Kalinka,[9] to which the translator is deeply indebted. The more recent monograph of

[9] *Die pseudoxenophontische* ΑΘΗΝΑΙΩΝ ΠΟΛΙΤΕΙΑ; Kalinka; Teubner (1913). (Full bibliography, pp. 1-4).

Stail[10] may also be mentioned. More general discussion and comment will be found in Croiset : *Histoire de la Littérature Grecque* (III, p. 349, note) ; Murray : *History of Ancient Greek Literature* (pp. 167-9) ; Richards : *Xenophon and Others* (c. VI, especially pp. 61-3) ; Bury : *History of Greece* (p. 427) ; Holm : *History of Greece* (II, p. 439 ; Eng. Trs., 1894). The text followed in the translation is, except where otherwise stated, that of Marchant,[11] italics being employed where the Greek text is corrupt and emendations uncertain.

[10] *Uber die pseudoxenophontische* ΑΘΗΝΑΙΩΝ ΠΟΛΙΤΕΙΑ ; Stail, Rhetorische Studien 9 Heft ; Paderborn (1921).

[11] *Xenophontis Opera Omnia* ; tom. V, *Opuscula ;* Marchant ; Oxford.

THE CONSTITUTION OF THE ATHENIANS

CHAPTER I

(1) As for the constitution of the Athenians, their choice of this type of constitution I do not approve, for in choosing thus they chose that rascals should fare better than good citizens. This then is why I do not approve. However this being their decision, I shall show how well they preserve their constitution, and how well otherwise they are acting where the rest of Greece thinks that they are going wrong.

(2) First of all then I shall say that at Athens the poor and the commons seem justly to have the advantage over the well-born and the wealthy; for it is the commons which mans the fleet and has brought the state her power, and the steersmen and the boatswains and the ship-masters and the lookout-men and the ship-builders—these have brought the state her power much rather than the infantry and the well-born and the good citizens. This being so it seems just that all should have a share in offices filled by lot or by election, and that any citizen who wishes should be allowed to speak. (3) Then in those offices which bring security to the whole commons if they are in the hands of good citizens, but if not ruin, the commons desires to have no share. They do not think that they ought to have a share through the lot in the supreme commands or in the cavalry commands, for the

commons realises that it reaps greater benefit by not having these offices in its own hands, but by allowing men of standing to hold them. All those offices however whose end is pay and family benefits the commons does seek to hold. (4) Secondly some folk are surprised that everywhere they give the advantage to rascals, the poor and the democrats rather than to good citizens. This is just where they will be seen to be preserving the democracy. For if the poor and the common folk and the worse elements are treated well, the growth of these classes will exalt the democracy; whereas if the rich and the good citizens are treated well the democrats strengthen their own opponents. (5) In every land the best element is opposed to democracy. Among the best elements there is very little license and injustice, very great discrimination as to what is worthy, while among the commons there is very great ignorance, disorderliness and rascality; for poverty tends to lead them to what is disgraceful, as does lack of education and the ignorance which befalls some men as a result of lack of means. (6) It may be said that they ought not to have allowed everyone in turn to make speeches or sit on the Council, but only those of the highest capability and quality. But in allowing even rascals to speak they are also very well advised. For if the good citizens made speeches and joined in deliberations, good would result to those like themselves and ill to the democrats. As it is anyone who wants, a rascally fellow maybe, gets up and makes a speech, and devises what is to the advantage of himself and those like him. (7) Someone may ask how such a fellow would know what is to the advantage of himself or the commons. They know

that this man's ignorance, rascality and goodwill are more beneficial than the good citizen's worth, wisdom and ill-will. (8) From such procedure then a city would not attain the ideal, but the democracy would be best preserved thus. For it is the wish of the commons not that the state should be well ordered and the commons itself in complete subjection, but that the commons should have its freedom and be in control; disorderliness is of little consequence to it. From what you consider lack of order come the strength and the liberty of the commons itself. (9) If on the other hand you investigate good order, first of all you will see that the most capable make laws for them; then the good citizens will keep the rascals in check and will deliberate on matters of state, refusing to allow madmen to sit on the Council or make speeches or attend the general assemblies. Such advantages indeed would very soon throw the commons into complete subjection.

(10) The license allowed to slaves and aliens at Athens is extreme and a blow is forbidden there, nor will a slave make way for you. I shall tell you why this is the custom of the country. If it were legal for a slave or an alien or a freedman to be beaten by a freeman, you would often have taken the Athenian for a slave and struck him; for the commons there does not dress better than the slaves and the aliens, and their general appearance is in no way superior. (11) If anyone is surprised also at their allowing slaves, that is some of them, to live luxuriously and magnificently there, here too they would be seen to act with wisdom. In a naval state slaves must serve for hire, *that we may receive the fee for their labour,* and we must

let them go free.[12] Where there are rich slaves it is no longer profitable that my slave should be afraid of you. In Sparta my slave is afraid of you. If your slave is afraid of me there will be a danger even of his giving his own money to avoid personal risks. (12) This then is why we placed even slaves on a footing of equality with free men; and we placed aliens on a footing of equality with citizens because the state has need of aliens owing to the number of skilled trades and because of the fleet. For this reason then we were right to place even the aliens on a footing of equality.

(13) The commons has put down those who make a practice of athletics and music there. It considers this unseemly, realising that it is unable to practise these pursuits. On the other hand in the provision of dramatic choruses, the superintendence of athletics and the command of ships of the line, they know that it is the rich who provide choruses while the commons is supplied with men to provide the choruses, that it is the rich who superintend athletics and command ships of the line, while the commons is supplied with men to command and superintend. At any rate the commons demands pay for singing, running, dancing and voyaging, in order that its wealth may increase and the rich become less rich. In the law-courts they do not pay more heed to justice than to their own gain.

(14) As for the allies, that the Athenians leave home and, as it is thought, bring false accusations against the good citizens and hate them—they know that the ruler cannot help but be hated by the ruled, and that if the rich and

[12] Perhaps: '*In a naval state men must for financial reasons be slaves to their slaves , , , and let them go free.*'

the good citizens in the various cities have control the rule of the commons at Athens will be very short-lived. This then is why they disfranchise the good citizens, rob them of their wealth, drive them into exile, or put them to death, while they exalt the rascals. The good citizens of Athens protect the good citizens in the allied cities, realizing that it is to their own advantage always to protect the best elements in the various cities. (15) It might be suggested that the ability of the allies to pay tribute is the strength of Athens. The democrats think it more advantageous that each individual Athenian should possess the wealth of the allies and the allies only enough to live on, and continue working without having the power to conspire.

(16) The commons of Athens is also thought to be ill-advised in compelling the allies to travel to Athens to have their law-suits tried. They meet this criticism by reckoning up all the benefits to the Athenian commons that this involves: first of all the receipt of pay out of the court fees all the year round; then while remaining at home without sending out ships they manage the allied cities, and protect the party of the commons while they ruin their opponents in the courts. If each of the allies tried their law-suits at home, out of hatred for Athenians they would have destroyed those of their own people most friendly to the Athenian commons. (17) In addition the commons of Athens gains the following advantages from having the allied law-suits tried at Athens. First the five per cent. duty levied at the Peiraeus brings more in to the state; (18) next anyone who has a lodging-house is more prosperous, and so is the man who has a couple of hacks or a slave for hire; then the heralds are more prosperous as a

result of the visits of the allies. Above all this if the allies did not come to Athens for their law-suits they would honour only those Athenians who leave home—the generals, the naval commanders and envoys. As it is all the allies individually must fawn upon the Athenian commons, realizing that they must come to Athens and appear as defendant or prosecutor before the commons and the commons alone, for that forsooth is the law at Athens; and in the law-courts they must make supplications and grasp so-and-so by the hand as he enters. This then is why the allies are rather in the position of slaves of the Athenian commons.

(19) Moreover owing to their over-seas possessions and appointments they have unconsciously learned to row, their attendants too. For on a voyage master and man must often take an oar and learn the nautical terms. (20) They become good steersmen by experience of boats and by practise. Some get practise by steering a boat, others by steering a merchant-man, and some go on to command ships of the line. The mob however can go on board and at once set about rowing, for they have spent all their previous life in practise.

CHAPTER II

(1) The situation with regard to their infantry, which is at Athens thought to be least favourably situated of all, is that they think themselves inferior to their enemies and less than them in numbers, but to the allies who bring in the tribute they are superior on land, and they consider the infantry sufficient if they have the upper hand of them. (2) Moreover chance has brought about a state of affairs somewhat as follows. Subjects of a land power can form a union of small cities and fight together as one, whereas such subjects of a naval power as are islanders cannot unite their cities in one, for the sea lies between and their masters have command of it. Even if the islanders can come together secretly on one island, they will be starved out. (3) Of such mainland states as are subject to Athenian rule the large are in subjection because of fear, the small simply because of need; there is not a city which does not require both import and export trade, and it will not have that unless it is subject to the rulers of the sea. (4) Secondly a sea power can always[13] do what a land power can do occasionally—that is ravage the territory of a more powerful state. It is possible for him to coast along wherever there are few or no enemy troops and if they approach sail off in his ship; such tactics cause less inconvenience to him than to the man who marches up a force on foot. (5) Again the sea power can sail away as far as you like from their own land,

[13] Lange inserts '*always*' as seems to be required.

whereas the land power cannot undertake a march of many days away from their own country; for marching is slow, and a man on foot cannot carry provisions for a long period. He who marches on foot must march through friendly country or win a way with the sword, whereas the man aboard ship can disembark where he has the superior force, and where he has not can refrain from disembarking at this point, and sail along until he comes to friendly country or meets with forces inferior to his own. (6) Again the strongest land power is hard hit by the blighted crops which are of God, but not so the sea power. All countries do not suffer from blight simultaneously, so that to those who rule the sea come imports from the country with healthy crops.

(7) If there is any need to mention less important facts too, command of the sea and contact with the different people of different countries were the first means of introducing luxurious ways of living. The delicacies of Sicily, Italy, Cyprus, Egypt, Lydia, Pontus, the Peloponnese, in fact of any country, all converge upon one point as a result of the command of the sea. (8) Then hearing every tongue they adopted a phrase from this tongue and a phrase from that. The Greeks as a whole enjoy a language, a way of life and a general appearance which is rather their own, the Athenians a hotch-potch of those of all the Greeks and foreigners.

(9) Sacrifices, temples, feasts and sacred inclosures too —the commons realises that every poor man is not able individually to offer sacrifices, give feasts, found temples, and live in a city which is beautiful and great, so it has devised a way of attaining this. The state sacrifices many

victims at the public charge, but it is the commons which partakes of the feasts and divides up the victims. (10) So with sports-grounds, baths and changing-rooms, some rich men have their own, but the commons gets many athletic grounds, changing-rooms and baths built for itself on its own account, and the rabble gets more enjoyment from these than do the few well-to-do.

(11) They alone can possess the wealth of Greeks and foreigners. If a city is rich in ship-building timber where will it dispose of it unless it win the consent of the ruler of the sea? What if some city is rich in iron or bronze or cloth? Where will it dispose of it unless it win the consent of the ruler of the sea? These however are just the very things of which my ships are made—somebody's wood, somebody's iron, somebody's bronze, somebody's cloth and somebody's wax. (12) Moreover *they will not allow our rivals to take their goods elsewhere or (if they try) they will not use the sea.* I pass my time in idleness, and because of the sea I have all these products of the earth, whereas no other single city has two of these commodities; the same city does not possess both timber and cloth, but where cloth is plentiful the country is flat and treeless, nor do bronze and iron come from the same city, nor does one city possess two or three of the other commodities, but one has one, another has another.

(13) Once more along every coastline there is either a projecting headland or an island off the shore, or some strait or other. Thus those who have command of the sea can lie off there and ravage those who dwell on the mainland. (14) They lack one advantage. If the Athenians lived on an island and held command of the

sea, they would have had the power to inflict loss if they wished without suffering any themselves so long as they ruled the sea, either the ravaging of their land or the waiting for invasion. As it is the farmers and the rich Athenians cringe somewhat before the enemy, whereas the commons, knowing well enough that the enemy will not burn or ravage anything of theirs, lives without fear and without cringing to them. (15) In addition there is a second ground for fear from which they would have been free had they lived on an island, the fear that the city would ever be betrayed by a minority or the gates opened or the enemy gain a footing. For how would this come about if they lived on an island? There would be no fear of a rising against the commons if they lived on an island. At present a rising would be based upon the hope of being able to invite the enemy in by land, but if they lived on an island there would be no grounds for fear in this respect either. (16) As therefore they did not originally happen to settle on an island, what they do is to lay up their wealth in the islands, trusting in their sea power, while they put up with the ravaging of Attica, knowing that if they take pity on her they will lose other greater advantages.

(17) Again oligarchical states must abide by their alliances and their oaths. If they do not keep to the agreement *penalties can be exacted* from the few who made it. But whenever the commons makes an agreement it can lay the blame on the individual speaker or proposer, and say to the other party that it was not present and does not approve what they know was agreed upon in full assembly; and should it be decided that this is not so, the

commons has discovered a hundred excuses for not doing what they may not wish to do. If any ill result from a decision of the commons it lays the blame on a minority for opposing and working its ruin, whereas if any good results they take the credit to themselves.

(18) They do not allow caricature and abuse of the commons, lest they should hear themselves evilly spoken of, but they do allow you to caricature any individual you wish to. They well know that generally the man who is caricatured is not of the commons or of the crowd, but someone rich or well-born or influential, and that few of the poor and democrats are caricatured, and they only because they are busy-bodies and try to over-reach the commons; so they are not angry when such men are caricatured either. (19) I say then that the commons at Athens realizes which citizens are good citizens and which rascals. With this knowledge they favour those who are friendly and useful to them, even if they are rascals, whereas they hate rather the good citizens. For they do not believe that their worth exists for the good but for the ill of the commons. Conversely certain men who in fact belong to the commons are not democratic by nature. (20) I pardon the commons itself its democracy, for it is pardonable that everyone should seek his own interest. But the man who is not of the commons yet chose to live in a democratic rather than in an oligarchical state sought opportunity for wrong-doing, and realized that it was more possible for his wickness to go unnoticed in a democratic state than in an oligarchical.

CHAPTER III

(1) The type of the constitution of the Athenians I do not approve, but as they saw fit to be a democracy in my opinion they preserve their democracy well by employing the means I have pointed out.

Further I notice that certain folk blame the Athenians because sometimes there the Council or the commons cannot deal with a man, though he waits about for a year. (2) This happens at Athens simply because they are unable owing to the multitude of their activities to deal with and dismiss everybody. How could they do so, seeing that first of all they have to celebrate more feasts than any other Greek state, and in the course of these feasts it is less possible to get state business through? Secondly they have to decide more private and public law-suits and official scrutinies than all the rest of the world together, and the Council has to deliberate on much relating to war, revenue, legislation, contemporary happenings at home and among the allies; it has also to receive the tribute and look after the dock-yards and the temples. Is it then to be wondered at that with so much on hand they are unable to deal with everyone? (3) It is said that if you approach the Council or the commons with a bribe your business will be dealt with. I would agree that much is got through at Athens by means of bribery, and that still more would be got through if still more people gave bribes. This however I am sure of, *that the state is not capable of getting through everybody's business when so much is needed,* even if you were to give them any amount of gold and

silver. (4) Furthermore judgments must be given if anyone does not equip his ship, or if someone builds upon public land; there must be judgments upon appeals by patrons of choruses for the Dionysia, the Thargelia, the Panathenaia, the Promethia and the Hephaestia every year; four hundred naval commanders are appointed annually, and every year judgments must be given on appeals lodged by any of them. In addition to this there must be preliminary and final scrutinies of the magistrates, there is the examination of orphans and the appointment of the custodians of prisoners. (5) This is annual business. From time to time there must be decisions *about military service,* or if any unlooked for crime is committed, whether of unprecedented outrage or impiety. I pass over much, but the most important duties have been mentioned except the assessment of tribute. This generally takes place every four years. Well then must we not suppose that they ought to judge upon all these cases? (6) Let any man mention any case they ought not to judge upon there. If we must agree that they ought not to give all these judgments it must be done in the course of a year. Even now, when the courts sit throughout the year, they do not suffice to suppress crime because of the size of the population. (7) Well then, you will argue, they ought to give judgment but employ smaller juries. They must surely, unless they have few courts, have small juries in each. As a result it will be easy to trick the small jury and bribe them to give much less just decisions. (8) Moreover you must remember that the Athenians have to hold festivals also, in the course of which the courts cannot sit. They hold twice as many festivals as the rest of the world, but I

consider them as equal to those of the city which holds the fewest.

This then being how matters stand, I maintain that the state of things at Athens cannot be otherwise than it is at present, unless it is possible in some small way to take away this and add that. It is not possible to make many alterations without robbing the democracy of power. (9) It is possible to devise many ways of improving the constitution, but to leave the democracy in existence and yet devise adequate ways of introducing better government is not easy, unless, as I said just now, it is by way of some small additions or subtractions.

(10) The Athenians are also thought[14] to be ill advised because they take sides with the worse elements in cities divided by faction. They do this with good reason. If they sided with the better elements they would not side with those who hold the same opinions as themselves, for in no city is the better element well inclined to the commons, but in each the worse element is well inclined to the commons; like favours like. This then is why the Athenians side with the elements akin to themselves. (11) As often as they attempted to side with the best it has brought them no profit: within a short time the Boeotian commons was in slavery, and again when they sided with the best at Miletus within a short time the latter broke away and massacred the commons. Then too when they sided with the Lacedaemonians against the Messenians within a short time the Lacedaemonians reduced the latter, and were at war with Athens.

[14] The MSS. are obviously wrong in giving '*I think that the Athenians are ill advised . . . etc.*'

(12) It might be imagined that no one at all has been disfranchised at Athens unjustly. I maintain that there are those who have been unjustly disfranchised; however they are but few. (13) But it needs not a few to attack the democracy at Athens, the fact being that it is not those who have been disfranchised justly who care, but those who may have suffered unjustly. How then could anyone think that at Athens the majority have been disfranchised unjustly where it is the commons which holds office? Unjust administration, unjust speaking, unjust action are the causes of disfranchisement at Athens. Considering this it must not be imagined that there is anything to fear from the disfranchised at Athens.

OXONIAN PRESS, OXFORD.

Xenophon. Respublica Atheniensium

The Old Oligarch; being the Constitution of the Athenians; tr. with an introduction by James A. Petch