

ELECTIONS IN THE ANCIENT WORLD

I

It is with the Greeks that I shall be mainly concerned. I know much less about those sons of Aeneas, the Romans, whose mother was Venus (so legend and Lucretius tell us), but with whom, for all that, I have never fallen so much in love as I have with the Greeks. In speaking of elections among the Greeks I shall be concerned with their ideas about principles, mainly as those ideas are recorded by Plato and Aristotle, rather than with the methods which actually they used: in other words, I shall attempt an analysis of the general political thinking that lay behind their behaviour, rather than a description of the working of their particular electoral systems. But I must first of all lay a foundation—a foundation of distinctions and definitions—before I attempt that analysis.

The first distinction I have to make is that between election proper, or the deliberate practice of the citizen's choice, for which the Greek word is *hairesis*, the parent of our word 'heresy'—between election proper, on the one hand, and on the other hand the use of the lot, or the appeal to chance, which was also, I hasten to add, a way of giving *everybody* a chance, and for which the Greek word is *klēros*, the ancestor for our word 'clergy'.

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(It is curious, by the way, that these two Greek words, which are terms of politics, should have issued in our two ecclesiastical terms 'heresy' and 'clergy': but then the Greek word *ecclesia*, which designated a political assembly, has also issued with us in an adjective [the adjective 'ecclesiastical'] and in Latin countries a noun [for example, the French noun *église*], which indicates a religious society.) Now the Greeks regarded election proper as something aristocratic, thinking that *hairesis* meant the selection of 'the best', or the *aristoi*; and they regarded the lot or *klēros* as something democratic—something conducive to liberty and equality, if not necessarily to fraternity. If you want a mixed constitution which combines aristocracy and democracy, Aristotle accordingly argues, you need some sort of mixture of election and the lot. Actually, the use of the lot was far more usual in Greek city-states, at any rate when they were democracies—and they generally were, as Aristotle remarks, noting that the large populations of the cities of his day made any other form of constitution almost impossible—the use of the lot, I repeat, was far more usual than the practice of election. In Athens, for example, most of the officers were appointed by lot, as Aristotle's treatise on the constitution of Athens records; and only the generals and the other military officers, with the finance officials, were elected by vote.

What has just been said, in the last sentence, about the election of *officers* and *officials*, brings us face to face with another distinction, a second distinction, which has to be made. If you assume three branches of government—the deliberative, the executive and the judicial—you may say that today, when we speak of election, we mean election of the members of the deliberative body. The Greeks, when they spoke of election, meant something else: they meant, as a rule, election of the members of the executive body. In their small city-states the citizen did not elect members of parliament: he and his fellows were *themselves* the parliament, the primary assembly, meeting in person and *in pleno*, and not acting indirectly through agents or proctors who served as their representatives and discussed and decided issues on their behalf. Representative institutions were generally unknown to the Greeks, alike in their oligarchies and their democracies: in oligarchies, a fixed limited circle, determined by wealth, or by a mixture of birth and wealth, acted directly as a primary assembly: in democracies the rounded O of the whole civic body acted in the same way and the same capacity. It is not until the middle of the Middle Ages, about the thirteenth century of our era, that the idea and practice of the representative, the *procurator* with 'powers of attorney' acting on behalf

of a constituent body, begins to appear in the Spanish Cortes, in the English parliament, and in the general chapters of religious orders such as the order of the Dominicans. (It is one of my 'heresies', by the way, that representation was perhaps originally, or at any rate mainly, created by thought and ingenuity of the clergy—the clergy both regular and secular—as they developed their general monastic chapters and their provincial convocations of cathedral and diocesan priests.) But here I pause and digress to say that there *were* some hints or embryos of representation among the Greeks of the fifth, fourth and third centuries B.C. There are as many as four such hints or embryos which I should like to mention.

I take Athens first for an example. It is true that the sovereign Athenian assembly, the *ecclesia*, was a primary and not a representative body. But it is also true that Athens had a *boulē* as well as an *ecclesia*, and though this *boulē*, or Council, was subordinate to the *ecclesia*, introducing measures which the assembly then discussed and on which the assembly decided, it was by no means a nugatory body. Now, the Athenian Council—which consisted, by the way, of 500 members, and which met daily (while the Assembly met weekly)—had a basis which was partially, at any rate, elective, and a character which we may call semi-representative, or quasi-representative. The local demes or wards of Athens elected a number of candidates by *hairesis*, the more populous demes electing a larger number than the smaller demes, on a proportional system; and these candidates, if they satisfied a test of their qualifications, were then eligible for selection by lot, as members of the Council. This was a sort of indirect election, or at any rate a mixture of election and lot; and this method made the Council, so far as its powers went (and they were not inconsiderable), a sort of representative body, or an embryo of such a body. I take again, as a second example, the Boeotian League, with its remarkable federal system of cities, as it stood about 400 B.C., and I note that its federal synod of 660 members was *elected* in equal numbers from the eleven electoral divisions of the League, and had, as scholars have noted, 'a strongly representative character'. Indeed it is leagues, or federations, which tend by their nature—as groups of many cities, and as therefore requiring a central federal assembly with members drawn from each city—to foster the evolution of bodies of elected representatives. The individual city may be content, and more than content, with a primary assembly: the group of cities needs something more. Accordingly we find—and this is the third hint or embryo of representation which I would note—we find that the Second Athenian League, which was instituted in 377 B.C., and which sought to

avoid the centralisation and imperialism of the First or Delian League, made provision for a double parliament—one part consisting of the Athenian Council and Assembly, and the other being a ‘synod’ of representatives from all the other states of the League. The later Achaean League of the third century B.C., the last of my four examples, covered a more contiguous and homogeneous territory than the second Athenian League, and it had no similar device: its assembly, or ‘synod’, seems to have been a primary assembly composed of the citizens of all the member cities: but two provisions safeguarded what may be called the ‘state rights’ of these member cities and prevented them from being overwhelmed by the primary federal synod. One provision was that the synod should meet in rotation in each city to give all the cities an equal chance: this may remind us of Rousseau’s idea of a movable metropolis, and also of an old Trade-Union practice in England by which Trade-Union branches in different towns were made in rotation the ‘governing branch’ for the whole of their union. The other provision which safeguarded the rights of the member-cities was that votes were taken in the synod by cities, and not *per capita*, just as votes were taken at Rome by centuries and not by individuals, or as our English Trade Unions give a group-vote in their Trades Union Congress; and each civic unit could thus assert itself and its claims. All this relates to the Achaean assembly or ‘synod’; but there was also an Achaean *boulē* or Council, whose members seem to have been selected by lot from all the citizens of the League over thirty years of age. We know little about this Achaean *boulē*; but Dr. Tarn, in his book on *Hellenistic Civilisation*, speaks of it as ‘an interesting if tentative experiment in the direction of representative government’.

I have allowed myself to run into some detail, and even to be guilty of digression, in dealing with these hints or embryos of representation in ancient Greece—representation, I mean, in the sense of the election of representatives to the deliberative branch of government. Let me now return to the point which I was making before I went off down the by-road—the point that the Greeks, when they spoke of election, generally meant election of members of the executive rather than election of members of a deliberative assembly. There are two passages in the *Politics* of Aristotle which are here relevant. In both he is discussing the rights of the people and their powers of choice: in both he speaks only of their power of choosing *magistrates*. In the first of these passages he is concerned with the legislation of Solon. Solon, he suggests, gave the people the necessary minimum of power. ‘He gave them’, I quote Aristotle’s words, ‘simply

the rights of electing the magistrates and calling them to account; and if the people do not enjoy these elementary rights, they must be a people of slaves, and thus enemies to the government.’ The second paragraph comes in that great chapter, the eleventh chapter, of the third book of the *Politics*, in which he is discussing the general issue of the rights of the masses. In that chapter he repeats what he has previously said in dealing with the legislation of Solon. There is a risk, he argues, in not letting the masses have *some* share in the enjoyment of power; a state with a body of disfranchised citizens who are numerous and poor must necessarily be a state which is full of enemies. The alternative is to let them share in the electoral functions; and thus, he says, we find Solon, and some of the other legislators, giving the people the two general functions of electing the magistrates to office and calling them to account at the end of their period of office.

But in actual practice—the actual practice of Athens and the other Greek democracies—there was really very little *election*, in the strict sense of the word, of the members of the executive. The magistrates, as I began by noting, were mainly appointed by lot, with the one exception of the generals and other military officers and the finance officials. Election by show of hands (*cheirotonia*) was regarded as an aristocratic or oligarchical method; and thus Aristotle, reporting the view entertained by some writers about the legislation of Solon, tells us that the method which he introduced of *electing* the executive magistrates was held by them to be the aristocratic element in his system. On the other hand selection by lot—or in other words by the chance of the bean, or *kuamos*, those who drew white beans being the lucky ones—was held to be democratic; and here again we may cite Aristotle, who, enumerating the attributes of democracy, begins by listing the election of officers *by* all and *from* all, but goes on at once to add the method of appointing by lot to all offices—or, at any rate, as he proceeds to add, to all which do not require some practical experience and professional skill. The use of the bean seems strange to us; but now that we are embarked on the egalitarianism of the welfare state we too may come down to beans. To the Athenian, at any rate, it was a symbol and guarantee of equality; and there is this to be said in his favour that he surrounded the bean with safeguards. There was no system—or rather chaos—of a pure lottery; nor was it every chance Tom, Dick and Harry who was carried into office and kept in it by the luck of the lot. The safeguards devised by the Athenians were triple: first, there was a test of fitness, a *dokimasia*, to be satisfied before entry on office; next, there

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was liability to what may be called a vote of censure (an *epicheirotonia*, or 'additional show of hands') by the assembly during an officer's tenure of office, if it held that there was ground for questioning his conduct; and finally there were regular scrutinies, or *euthunai*, at the end of each officer's tenure of office, which included not only a financial audit but also an examination of the general behaviour of officers. The lot might light on any man; but every man had to think of the fences ahead of him before he started his run.

If there were safeguards against the dangers of the lot, the lot itself was also a safeguard against the possible evils of the alternative system of *election*. In the Greek city-state, as in some of our British municipalities, corrupt practices might easily creep into elections. There were no regular parties in ancient Greece; but there were party clubs—*synōmosiai* or 'conjurations' of persons bound together by oath—which often sought, in the days before the use of the lot, to manage and manipulate elections, for the advancement and in the interest of some particular person or group; and the introduction of the lot—the substitution of the *kuamos* or bean for the *psēphos* or voting pebble—was not only an offering on the altar of equality, but also a prophylactic against election intrigues. Aristotle notes in the *Politics* that at Heraea, a city in Arcadia from which we might have expected an honest rural simplicity, the use of the lot was substituted for the method of election because the results of elections were determined by intrigues; and he also notes that where the offices are filled by vote, and the whole of the people has the vote, candidates begin to play the demagogue in order to get their vote. Similarly he notes in the *Constitution of Athens* that when the demes had a voice and vote in making appointments to office, they were in the habit of selling themselves (for there were rotten boroughs even before the days of eighteenth-century England), and they were therefore deprived of their function. Small bodies, he remarks, are liable to be corrupted by bribes and by favours. In the small Greek city-states personal considerations and interests found a favourable hot-house. Democracy let in the air and cleared the atmosphere; and that was one reason why it spread, and the use of the lot spread with it. It might mean demagoguery; but it also meant a fair field and no favour.

II

Hitherto I have been speaking in general terms about what I may call the political *thought* of the Greeks—the common stock of ideas current among the people at large which issued in their general practice. But I have

always drawn a distinction between political *thought* and political *theory*, meaning by the latter the speculation, the *theoria*, of philosophers and their schools. Political theory may often differ from political thought. It will not be so broad or so popular. It will smell of the study or lecture-room, rather than of the open air. The philosopher will want men to be in his own image, acting by reflective wisdom rather than by common sense and in the light of common conviction based on common experience; in a word, he will tend to be an intellectualist aristocrat, or even a pedantocrat. But here there is a great difference between Plato and Aristotle; between the Academy and the Lyceum, the Platonists of the Academy and the Peripatetics of Aristotle's Lyceum. I am myself a Peripatetic (so are most Englishmen), and my master is, and has always been, Aristotle rather than Plato. I love Plato (so did Aristotle, as witness the noble elegiac verses which he devoted to the memory of the man 'whom the bad have not even the right to praise'); I love Plato, but I follow Aristotle—perhaps because I am a Whig, 'the last of the Whigs', as I remember being once called (what a noble epitaph . . . if only it were true!)—perhaps because I am a Whig and because Aristotle (and *not* the Devil, as Dr. Johnson is reported to have held) was 'the first Whig'.

Plato was a pedantocrat who at the age of eighty (which happens to be now my own age) began to compromise with common sense and to mix democracy with his pedantocracy in the argument of his last, and to my thinking his wisest, dialogue, which is called the *Laws*. He had started from the intellectualism of Socrates, who had objected to the use of the lot because it made way for incompetence as readily as for competence. In the *Republic*, following in the steps and developing the views of his master, he had set the doctrine of specific function and specialised training over against the democratic promiscuity of the lot; and rejecting not only the lot, but also the more aristocratic method of *hairesis* or election, which might after all have given him some sort of a qualified *élite*, he had erected a philosophic sanhedrim, itself selected, and selecting others, on the basis of pure intellectualism. Election thus gave way to selection, and selection was conducted by examination: Plato would have had a mandarin society, with a deaf and silent people, unable to play with beans or to use a voting pebble, but managed and manipulated by a professoriate of examiners—all of them philosophers. (Think of it—all *philosophers*: it is a devastating thought.) It is, indeed, the business of any political society to produce a body of mandarins—an *élite*, a widely recruited *élite*—and having produced it to trust it: but it is also the duty, or rather the right, of such a

society to give some sort of consent—in other words, to have something to do with picking the *élite* and something to say about what its members are to do. Plato in the *Republic* is so concerned with the business of producing an *élite* that he neglects to consider the need of any sort of consent. There are some noble words at the end of the *Republic*, addressed by the Interpreter to the souls of the dead who are about to begin a new incarnation in a new round of earthly life: ‘No guardian spirit will cast lots for you’, says the Interpreter, ‘but you shall *choose* your own destiny. . . . The blame is his who *chooses*: Heaven is blameless.’ What a pity that Plato did not remember these words—words often quoted afterwards by Christian champions of the freedom of the will—when he was building his political theory. The souls of the dead might choose their new life. The souls of the living members of the political society are left by Plato with *no* choice.

Forty years later, in the *Laws*, written, as I have said, at the end of his life, he begins to pay heed to consent and election, and even to the use of the lot. He is still preoccupied with his *élite*, but he mixes his notion of a selected *élite* with a notion of some sort of consent in a scheme for a mixed constitution. I cannot go into the details, though they are profoundly interesting and curiously anticipate some modern developments. Briefly, he admits a popular assembly, which elects the deliberative body, or council, and also the various executive magistrates. The method proposed for the election of the council is complicated: it is, on the one hand, a mixture of universal suffrage, where each man counts as one, with what may be called class-suffrage, where the electorate is divided into classes and the upper classes count for more than the lower: it is also, on the other hand, a mixture of the aristocratic method of election with the democratic method of the use of the lot. The method proposed for the election of the executive magistrates, the 37 guardians of the law (*nomophulakes*), who take the place of the guardians or *phulakes* of the *Republic*, is more simple; they are simply elected, and elected by a triple ballot, in three successive votes which winnow down the 300 original candidates to the final 37. A curious thing about these guardians of the law is that they hold office for 20 years: there is not much opportunity for election on that basis, but Plato dislikes the democratic idea of a short life and a merry one, so far at any rate as concerns responsible magistrates, and he prefers a long run at a quiet pace. Another thing, and a happy thing, about the guardians of the law is that they have a president, elected from their ranks, in a secret vote by a joint assembly of *all* the magistrates of the State; and a still happier thing is that this president—the head of the government, or prime

minister—must be, *not* the first Lord of the Treasury, as in our own financially minded country, but the Minister of Education (*epimelētes tēs paedeias*). I have always admired that provision. If Mr. R. A. Butler is ever prime minister, as he well may be, I hope that he will once more hold the office of Minister of Education (as he did once during the war), in conjunction with that of prime minister.

I turn from Plato to Aristotle. We have no such succession or series of his writings as we have of Plato's, who wrote the *Republic* about 387 B.C. and finished the *Laws* about 347 B.C., so that there is a period of 40 years for the changing and maturing of his views. Aristotle's political writings—the *Politics* and the *Constitution of Athens*, with some political passages in the *Ethics* and the *Rhetoric*—were all crowded, I take it, into the period of some ten years or so (335–324 B.C.) during which he taught at the Lyceum; and they show a consistently Whig or (I may even say) 'Asquithian' trend. . . . I say 'Asquithian', by the way, because I have in my mind the scheme of public social services which Aristotle proposes in the Sixth Book of the *Politics*, a scheme which reminds me of the new scheme of social legislation which Asquith began (it was *he* again, by the way, and not Lloyd George, who was responsible for the scheme, when he was Chancellor of the Exchequer)—the scheme which inaugurated the present welfare state. . . . But returning to the particular matter of election, which is my proper theme, I can only repeat what I had already said, that Aristotle believed in the right of the masses—to *plethos*, the people at large—to elect the magistrates and to call them to account, I must add, however, a qualification. He did not believe in unqualified universal manhood suffrage—one man one vote, and all men equal. He had something of J. S. Mill's fear of that absolute; but while Mill would have qualified universal suffrage by a regard to and weighting of the factor of education, Aristotle would have qualified it by a regard to and weighting of the factor of property. In a notable chapter of the Sixth Book of the *Politics* he discusses the relative claims of personality, or 'one man one vote', and of property, or 'the more stake a man has in the country the more the number of his votes'. He proposes a plan which recognises and does justice to both claims. Let the will of the majority prevail, he says, but let it be the will of a majority of persons who *are also the owners of a majority of property*. He proceeds to suggest a system which gives effect to this plan. The system might have worked in a small city-state: it could hardly work in a state of 30,000,000 electors, for it would involve an impossible mass of mathematical calculations. But the whole idea is not a folly: it is a Whig

attempt at a rational eirenicon. The pity is that politics are in a sense beyond, or above, reason. They include also sentiments, feelings, prejudices; and the egalitarian sentiment will always reject an eirenicon, however rational, which contravenes its feeling that 'a man's a man for a' that'. Sentimentalists, however, as well as rationalists, will accept another suggestion made by Aristotle in the same wise Sixth Book of the *Politics*. It is that those who are eligible for office should not be a narrower circle than those who elect to office. Do not, Aristotle says, have a broad circle of electors and a narrow circle of the eligible, for that will mean that the few who are eligible will start bidding against one another for the support of the electorate, and that will mean corruption, sedition, and ultimate revolution.

I have spent four-sixths, or even seven-eighths, of my time on the Greeks. The difficulty about the Romans is that they didn't *think*—at any rate originally—and the Greeks always steal the limelight, because they *would* think, and not only think, but also talk and write. I have been trying lately to collect passages from Latin and Greek authors on the development of social and political ideas from 300 B.C. to A.D. 300, and I have been astonished—no, I was not astonished, for it was really what I expected—to find how little I got from the Latin authors I consulted. If I did get anything—for instance, from Cicero—I found, or suspected, that he had got it from a Greek, generally a Greek whose name began with a P, Polybius or Panaetius or Posidonius. The only good fresh Latin stuff I could find was in the Roman lawyers, such as Gaius and Ulpian. I will mention what I found in them in a moment; but let me first hasten to admit that the Romans—being, as they essentially were, good engineers, both literally and metaphorically—literally, in building roads and aqueducts and *castra* and *coloniae*; metaphorically, in building viable and workable institutions—being, as I say, good engineers, engineered a whole system of elections. To describe it would be to run into constitutional antiquities of *comitia curiata*, *comitia centuriata*, *comitia tributa*, and that puzzling body, the *concilium plebis*; it would also be to flounder in a Serbonian bog of obscurity and the muddy slough of my own sad ignorance. I once knew something about it, when I took the Oxford School of *Literae Humaniores* in 1897: I have now forgotten it all. I only know that the Romans were great voters: they threw *tabellae* into an urn as they came by a gallery or *pons* out of the enclosures in which they were penned century by century: a majority of the votes in a century determined the vote of that century, and a majority of the centuries (it was all a system of *group-voting*)

determined the vote of the whole *comitia*. Formally, the people both voted *leges* (which the Athenian *demos*, by the way, did not do) and elected magistrates; actually, as the Republic developed, the government fell into the hands of the Senate, which consisted of ex-magistrates and was thus, at most, *indirectly* recruited by popular election in the *comitia*. But the elections in the *comitia*, in the latter days of the Republic, were manipulated by corruption or managed by the leaders of armies: and when the Empire came they were automatically determined by the will of the *Princeps*. A quasi-democratic façade covered the rule of ‘Tammanies’ and ‘bosses’; election in the ancient Roman world became a sham, interesting enough as a sham, but with no real political thought, no common conviction, and no general consent behind it. Yet the form persisted, if it persisted only as a sham; it entered into the theories and the formulas of the Roman lawyers; by them it was transmitted, as part of the corpus of Roman law, to the Middle Ages and the modern world; and thus we come to the paradox, the final paradox of our argument, that the sham system of voting and election current in later Rome meant more, far more, to the medieval and modern world, and transmitted a greater inheritance, than the genuine system current in Periclean and fourth-century Greece. Great is the power of shams, especially when they are adopted by the lawyers, who are adepts at dealing with them.

We must therefore look, as we end, at the theories which the Roman lawyers drew from the shams, or forms, of the Republic, as they were continued in and practised by the government of the Empire. Let us take their conception of law, or *lex*, and let us note Gaius’ definition that *lex est quod populus jubet et constituit*—law is the command and ordinance of the people, the result of *their* vote, the consequence of *their* saying, in answer to the *rogatio* of the presiding officer, ‘*Uti rogas*’, ‘Be it as you ask’. *Ainsi soit-il*. This is the theory of the basis of law in the will and vote of the people which you find in St. Thomas Aquinas, and which St. Thomas transmitted to future generations. But even more striking is the conception of the origin and basis of authority—the authority of government—which you find expounded by Ulpian and adopted, again, by St. Thomas. Why has a prince authority? ‘Because’, says Ulpian, ‘the people, by means of the *Lex Regia* which is enacted concerning his authority, confers upon him and into his hands all *its* authority and power.’ St. Thomas adopts and glosses this: the people give, and, he adds, the people can take away, if its gift should be abused. This is the way in which you arrive at the theory of the Social Contract, of which Filmer says that it was ‘hatched

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in the Schools and fostered by all succeeding papists for good divinity', but of which, going even further back, we may say that the original egg was laid by the Roman lawyers of the imperial age. It is the triumph of election in the ancient world, that the sham election of the Roman emperors, who, as we all know, never *were* elected, should have been, in the political field, the real classical inheritance bequeathed to the modern world. But I ought to add that St. Thomas, if he knew and drew on Ulpian, also knew and drew on Aristotle, whose *Politics* he knew in a Latin translation made by a Dominican archbishop. The eleventh chapter of the third book, with its idea that the people should elect the magistrates and *call them to account*, was an authority that could serve as a supplement to the dictum of Ulpian. So I end, after all, with Aristotle—but with an Aristotle hanging on to the coat-tails of Ulpian. Which is a curious picture! For Aristotle, after all, is greater than Ulpian.