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On the Mode of Selecting Jurors for the Law Courts described in the Last part of the Papyrus on the Constitution of Athens

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ON THE MODE OF SELECTING JURORS FOR THE LAW COURTS DESCRIBED
IN THE LAST PART OF THE PAPYRUS ON THE CONSTITUTION OF
ATHENS.

IN the second edition of my translation I gave no opinion on the uses of the various vessels and implements which are named in chapter 63 and subsequent columns of the papyrus as employed in the process of filling each law court with its complement of jurors. I imagined the data were insufficient to found any serious conjecture, and was led by a misconception of the functions of the letters, *A, B, C*, etc., to suppose the problem more intricate than it really is. But after a careful perusal of the remarks of Dr. Sandys in his edition of the text, the following view seems to me to harmonize with all the positive statements of the papyrus, and to supply a tolerably satisfactory scheme.

In chapter 63 we should adopt the suggestion of Dr. Sandys: *εἰσοδοὶ δὲ εἰσὶν εἰς τὰ κληρωτήρια* (instead of *δικαστήρια*) *δέκα, μία τῇ φυλῇ ἐκάστη*. There were ten balloting-rooms in a common building in some central position, each tribe having its room with a separate entrance. Although it is not stated in any of the extant columns, we must further suppose that each court (*δικαστήριον*) had ten entrances, not one for each tribe but, one for each juror division, *A, B, C*, etc., of whatever tribe. Each court also had its individual name Green, Red, Triangular (*βατραχιούν, φοινικιοῦν, τρίγωνον*), etc.

The text should then proceed: *καὶ κληρωτρίδες* (not *κληρωτήρια*) *εἴκοσι, δύο τῇ φυλῇ ἐκάστη*. In each balloting-room there were two balloting-urns (*κληρωτρίδες*), destined for the lottery by dice (*κυβεία*), one originally filled with a certain number of black and white cubes, the other receiving them as they were successively drawn by the archon. This last emendation is called for by two considerations: (1) no vessels for the cube-drawing are otherwise mentioned, and (2) a second balloting-room, as Dr. Sandys observes, would be superfluous. Similarly two vases (*ὑδρίαί*) served for the reception of the acorns (*βάλανοι*) whereby the jurors were allotted to the separate letters, *L, M, N*, etc., which in their turn were allotted to the separate courts. The employment of two *ὑδρίαί*, the second receiving the acorns as they were successively withdrawn from the first, is suggested by M. Haussoulier.

Every juror had a ticket, of which Dr. Sandys gives a representation, containing the name of the juror, his father, and his deme, and in the left-hand corner one of the first ten letters of the alphabet, *A, B, C*, etc. These letters did not distinguish the tribe of the juror, for the jurors of every tribe formed ten divisions, each distinguished by one of the letters. The divisions were permanent and simply or principally served, it would seem, to facilitate ingress and egress into and out of the law courts; each of which, as above suggested, must be supposed to have had ten entrances and exits, each distinguished by one of these letters. If ever the tribes consisted of precisely ten demes, each letter, *A, B, C*, etc., may have been the symbol within each of the tribes for one of its demes.

The whole process of sortition appears, so far as it is described in the legible columns of the papyrus, to have consisted of five operations, two of which served to the allotment of the courts to the causes which were to be tried (*κληρώσις δικαστηρίων*) and three to the selection of the jurors and their distribution among the courts (*κλήρωσις δικαστῶν*).

Κλήρωσις δικαστηρίων.

1. Assignment of a letter, *L, M, N*, etc., to a court (*ἐπικλήρωσις τῶν γραμμάτων τοῖς δικαστηρίοις*, ch. 63). This process would be simple and the work of the united archons, as would also the next stage.

2. Assignment of a court to a magistrate (*ἐπικλήρωσις τῶν δικαστηρίων ταῖς ἀρχαῖς*, ch. 59).

Until this was done it would not be known what cases would be tried and how many jurors would be wanted in each court.

Κλήρωσις δικαστῶν.

3. Exhibition of the juror-tickets (*πινάκια*) on frames (*κανονίδες*).

In each balloting-room the tickets of the jurors had been cast into ten boxes (*κιβώτια*) marked like the tickets with the first ten letters of the alphabet. From each of these boxes a ticket was drawn by the archon to designate the Affixer (*ἐμπηκτής*), whose duty it was to affix the tickets as they were

successively drawn from the *κιβώτια* on one of the ten *κανονίδες* marked with the same letter as the ticket, where they would be visible to all who were interested. This operation, besides enabling the tickets to be easily counted, seems only to have determined the order in which they were to be withdrawn from the frames in the next operation.

4. Drawing lots for the service of the day.

Each ticket was taken in order from its frame, and simultaneously a white or black cube was drawn by the archon from the balloting-urn (*κληρωτήρις*). A white cube imported selection for service, a black cube rejection. The proportion of white cubes to black depended on two things, the number of jurors required from each tribe, and the total number of tickets on the frames. If there were 500 tickets on the frames, and only 300 jurors wanted from each tribe, there would be 300 white cubes and 200 black. In another room the number of black cubes would be different.

5. Assignment of jurors to a letter, *L*, *M*, *N*, etc.

This was decided by each juror, as soon as he was selected, drawing an acorn (*βάλανος*) inscribed with one of the letters *L*, *M*, *N*, etc., from a vase (*ὀδρία*) and showing it to the presiding archon; who thereupon cast the ticket of the juror into a box (*κιβώτιον*) inscribed with the same letter. The acorn drawn by the juror was then thrown aside into the second *ὀδρία*. The requisite number of acorns to be inscribed respectively with each of the letters could be computed by the archons as soon as the courts had been assigned to the magistrates, and not sooner. According as different magistrates had the hegemony of the courts, some would require 251 jurors, others 501, others 1001, others 1501. Those under the hegemony of the Forty required either 201 or 401, ch. 53. The total number of acorns marked with a given letter, *L*, *M*, *N*, etc., would be divided by ten, and one tenth of the number would have to be supplied by each balloting-room.

To illustrate the working of the method, suppose, taking round numbers, ten courts, *L*, *M*, *N*, etc., were to be filled, and a total of 5000 jurors, 500 from each tribe, to be selected. Let the bodies of jurors in each court be denominated sections, and the permanent bodies into which the jurors of each tribe were separated divisions. The sections might vary much in dimension, but let us consider a particular section consist-

ing of 500. These 500 would consist of ten contingents of 50, contributed by each of the tribes: and each contingent of 50 would consist of ten divisions of 5 each, viz. $5A + 5B + 5C$, etc. Or, if we take another line of cleavage, our hypothetical section would consist of ten divisions of 50 each, viz. $50A + 50B + 50C$, etc., each of these divisions being formed by contingents, $5A + 5A + 5A$, etc., from different tribes.

The white cubes, being limited in number, would prevent the selection of more jurors than were wanted. But supposing in one of the balloting-rooms one of the boxes, *A*, *B*, *C*, etc., and consequently one of the frames *A*, *B*, *C*, etc., was empty or contained less than its normal quota, say 15 or 10 or 5 or 0 instead of 20; or that all or many of these tickets encountered a black cube when drawn from the frame; the drawing of lots (*κυβεία*) would continue for the tickets on the other frames until all the cubes were exhausted; and, so far as the given tribe's contingent affected the issue, some of the divisions, *A*, *B*, *C*, etc., would be more strongly represented in the sections, *L*, *M*, *N*, etc., than others. But supposing the whole tribe was unable to furnish its quota, was the number made up from the other balloting-rooms, and, if so, by what rule? And what happened if the number required could not be furnished by the combined lists of all the ten tribes? Were the courts allowed to sit and try cases with less than the normal complement of jurors? These and other problems were probably solved in the columns of the papyrus now illegible.

The scheme proposed was pronounced above to be tolerably satisfactory. The only objection to it that occurs to me is that the combination of the two operations numbered 3 and 4 seems unnecessary. Either operation alone would have sufficed. If no more than the required number of tickets had been allowed to be affixed to the frames there would have been no need of the lottery with the cubes. Or again the *κυβεία* might have taken place without the antecedent insertion of the tickets on the frames. But perhaps a twofold action of chance was thought to be a greater safeguard against any fraudulent manipulation of the lottery than a single one would have been.

With the exception of the use of *κληρωτήριδες* the whole scheme here propounded is, I think, to be found suggested in the notes of Dr. Sandys. In one small detail I would differ from him. In the lines from the *Plutus* of Aristophanes

ἐν τῇ σορῶ νυνὶ λαχὼν τὸ γράμμα σοῦ δικάζειν,
 σὺ δ' οὐ βαδίζεις, ὁ δὲ Χάρων τὸ σύμβολον
 δίδωσιν,

Dr. Sandys takes τὸ γράμμα as equivalent to τὸ πινάκιον. It surely rather stands for the letter, *L, M, N* etc., which a juror obtained by drawing an acorn (5) and which by a previous sortition (1) had been assigned to a certain court, τὸ βατραχιοῦν, τὸ φουνικιοῦν, etc.

The sentence νενέμνται γὰρ κατὰ φυλὰς δέκα μέρη οἱ δικασταὶ παραπλησίως ἴσοι [ἴσα] ἐν ἐκάστῳ τῷ γράμματι, ch. 63, is more obscure and presents a more arguable question. I cannot myself by any permissible strain force it to yield the scheme above described if the words ἐν ἐκάστῳ τῷ γράμματι refer, as Dr. Sandys interprets, to the divisions *A, B, C*, etc. I rather suppose that they refer to the sections, *L, M, N* etc. Then κατὰ φυλὰς is equivalent to ἐν ἐκάστῃ τῇ φυλῇ, and the ten μέρη are the ten divisions, *A, B, C*, etc.; or, to distinguish tribal divisions from state divisions, call them *a, b, c*, etc.

The sections *L, M, N*, etc. might be very unequal; and, consequently, a tribe's division, *a*, in one section, *L*, might be very unequal to the same tribe's division, *a*, in another section, *M*; but would generally (παραπλησίως) be equal to its other divisions, *b, c, d*, etc., within the same section *L* (ἐν ἐκάστῳ τῷ γράμματι).

The chance, however, that presided over the cube and acorn-drawing must often have produced an inequality in the number of jurors contributed by the different divisions, *a, b, c*, &c., of the same tribe to a single section: and this disparity would now and then exceed the limits of approximate equality (παραπλησίως ἴσα), unless that term is used with considerable latitude. These

tribal disparities would, however, compensate one another, and the state divisions, *A, B, C*, &c., would be represented in each section with approximately equal strength. This favours Reinach's suggestion, to omit κατὰ φυλὰς as an interpolation. A somewhat similar expression, ch. 21, διένειμε δὲ καὶ τὴν χώραν κατὰ δήμους τριάκοντα μέρη, gives no assistance. There the words κατὰ δήμους present a difficulty which perhaps should be removed by reading καὶ τοὺς δήμους.

A similar use of the phrase κατὰ φυλὰς may, however, be found in the beginning of ch. 63, τὰ δὲ δικαστήρια πληροῦσιν (better than κληροῦσιν) οἱ ἐννέα ἄρχοντες κατὰ φυλὰς. These words chiefly refer to operation 5, and mean that the courts received their complement of jurors in fractions (tenth parts) furnished by the archons from the tribal balloting-rooms. In other words, the sections were composed of contingents from every tribe.

The later passage, νενέμνται γὰρ κατὰ φυλὰς δέκα μέρη οἱ δικασταὶ παραπλησίως ἴσοι ἐν ἐκάστῳ τῷ γράμματι, may be translated: 'The jurors are brigaded, by a formation which pervades the tribes, in ten divisions, which furnish, roughly speaking, equal contingents to every court.' This may be decomposed into two propositions: the divisions are composed of contingents from every tribe, and the sections are composed of contingents from every division. It seems, then, unnecessary to adopt Reinach's proposal to omit the words κατὰ φυλὰς.

Dr. Sandys, ch. 63, note 1, interprets the words, τοὺς δὲ δικαστὰς κληροῦσι, ch. 59, as referring to the permanent enrolment in the divisions *A, B, C*, &c. I suppose they rather refer to the daily sortition for the sections, *L, M, N*, &c.

E. POSTE.

THE CHRONOLOGY OF THE ELEAN WAR.

A COMPLETE solution of all the difficulties involved in this problem, which has occupied the attention of commentators and historians for more than a century, is almost out of the question: we have to content ourselves with weighing one set of probabilities against the other.

The problem is twofold. (1) Did the Elean war last two years or three? (2)

Did the war take place before or after the XCV Olympiad (400 B.C.)? For Grote's common-sense remark (ix. 49) that, had the war been going on at the time of the Olympic festival, the fact would hardly have been left unnoticed by all the ancient authorities, effectually disposes of Clinton's chronology (i.e. 401—399 B.C.).

As to (1) E. Curtius (*Gr. Gesch.* Bk. v.