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THE JUDGMENT OF ANTIQUITY ON DEMOCRACY*

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THE Rejection of Democracy by Antiquity" may appear to be the proper title of this paper by the time it is completed, but such a title would sound too pessimistic and would tell only one side of the story. It is true that antiquity rejected democracy; but it is also true that Greece first experimented extensively with it and, what is even more important, developed a theory of democracy based on a faith in the essential efficacy and justness of human judgment probably never surpassed, while Rome in the period of fermentation marking the transition from senatorial supremacy to principate conducted a prolonged experimentation with means for improving the control by the people, or a part of it, over the government. Moreover, the Greco-Roman experiment was unique and has not yet lost its influence. Much of the story, however, has been obscured by the aristocratic or upper-class point of view of most of our informants. In fact, our best information is derived less from direct discussions of democracy than from incidental remarks and asides and from the analysis of the implications of statements made. The present paper, in other words, is based not so much on direct investigation as on the combination of odds and ends garnered from hither and yon. No single individual can come upon all such cues, and undoubtedly much has been overlooked.

It may be well to state at the outset that the democracy under consideration is a form of government and nothing else. This form of government came into being in Greece as the culmination of a long evolution. In an earlier paper I have maintained that, though Cleisthenes came to be regarded in ancient times as the founder of Athenian democracy, he himself did not call the form of government of his time *demokratia*, and that the word itself was not in use at the time.[1] The latter conclusion was reached independently by Professor Debrunner in a study of the word published before my article was written but not accessible to me at the time.[2] It is admitted also by Professor Ehrenberg in an interesting article in which he argues that Cleisthenes should be regarded as the founder of Athenian democracy.[3] If one must have a founder, there is something to be said for this choice, but it is better to assign this title to no one in particular and merely

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note that the Athenian democracy did not reach its full development before the Periclean Age.

The story of the theory of democracy need not be the same as that of the institution. The theory may, and probably even must, have developed first. To be sure, it is a truism that political institutions often receive their best exposition and defense after they have reached full development or even after they have begun to decline. But more important for us is the political thought of another kind, namely, the arguments used in favor of an institution before and at the time of its adoption. These arguments may consist partly of mere political propaganda, which does not represent any deep theory or even real conviction, and partly of genuine views about government, society, and human nature propounded with all that conviction which is common with apostles of new religions or social or political gospels. It is chiefly the arguments of the second type which interest us. Evidence for them is to be found in later works, such as the *Politics* of Aristotle, but still better in works contemporary with the democratic development, such as the tragedies of Aeschylus and the debate by Persian nobles on forms of government reported in Herodotus (3. 80–82), which, of course, is an index not of Persian but of Greek thought. Since Herodotus accepts the debate as a historical fact, he cannot have invented it himself but must have borrowed it from a predecessor. In all likelihood it represents the thought of the period of the Persian War.

The important issue of that time, as the debate shows, was not between popular government and oligarchy but between monarchy—actually the early Greek form of tyranny—and responsible government, though the form of responsible government given most emphasis already was popular government. The latter was not yet called democracy but used the name *isonomia*, a word which at the time rather implied equal responsibility under the law than equal rights before the law. In fact, the irresponsible monarch who need give account to no one is contrasted with responsible government under which all officials are held to account. The same emphasis on the irresponsibility of monarchs is found also in Aeschylus (*Persians* 213–14, *Prometheus Bound* 323–24). This evidence reflects a time when the most acute issue was that between tyranny and its opponents, and the latter condemned tyranny on account of its arbitrary and irresponsible nature. This point has been considered at somewhat greater length in my article mentioned above (n. 1). The general conclusions, in spite of some disagreement on details, are supported by Ehrenberg's article "Origins of Democracy" (n. 3). To the evidence adduced by me he adds that of Aeschylus' *Suppliants*. This aspect of the early theory of popular government need not detain us further.

Other aspects of the theory also appear in the debate in Herodotus in the contrast between monarchy and government by the mass of the people (*plethos*). When the latter rules, "it fills offices by lot, it holds office subject to rendering account, and it submits all policies to the general citizen body." In the last phrase, *koinon* is difficult to translate, and I once rendered it "the general assembly."[4] Probably the reference is rather to the "corporation" or "commonalty" of citizens, but for practical purposes it makes little difference. In either case the meaning is that questions are presented to the primary

assembly in which all active citizens have a vote. The quotation just given thus emphasizes three features of popular government, the selection of officials by lot, the fact that officials are held responsible for their acts, and the decision on policies by the mass of citizens. All three points involve faith in the ability of the average man to undertake the tasks of government. This is obvious for two points: the practice of entrusting office to anyone on whom the lot may fall, and the practice of entrusting decisions to the people as a whole. It should be equally clear for the responsibility of the magistrates. When the latter were held to account, the ultimate decision rested with a dicastery, and a dicastery stood for decisions by the common man. In the days of Solon the decision rested with the entire assembly or its members over thirty years of age. Later it was left to a jury chosen from a larger panel of dicasts. Under the latter system, however, the particular jury acted for the people of Athens and, in theory, as it were, was the people of Athens.[5] That is why its members were commonly addressed ὦ ἄνδρες Ἀθηναῖοι.

The most enduring feature of the democratic government of Athens was the control of policies and magistrates by the people, and the most enduring feature of democratic theory was its faith in the judgment of the people. This doctrine and confidence in the common man find classic expression in the funeral oration of Pericles. In a passage, which unfortunately is difficult and has caused editors considerable trouble, it is indicated that even the leadership of the state is not a task which absorbs all the time of statesmen, but that it is undertaken by men who also look after their own affairs, and that the rest of the citizens, though absorbed in their own business, have a pretty good understanding of the affairs of state and make sound decisions on policy (Thuc. 2. 40. 2). Nor was this argument for making the assembly supreme in the state new when Thucydides wrote or at the time Pericles is represented as propounding it. The same view is implied in the *Suppliants* of Aeschylus with its emphasis on the decision of the people in the assembly (942–45 and *passim*) — an assembly which references to "all the townsmen" (369) and to the *demos* (398, 488, 607, 624) show was a popular or democratic assembly.

Democratic theory, on the other hand, in spite of its emphasis on the use of lot, never seems to have gone so far as to deny differences and degrees of ability among men. The Athenian generals were elected by vote from the time the office was established, and there does not seem to have been any demand for their selection by sortition. Even the most enthusiastic advocates of democracy did not wish to entrust their lives on the field of battle to the command of any chance comer. To that extent the merit of men of ability was recognized by Greek democracy, and to that extent it was aristocratic in the sense that it wished to pick its best experts for posts of command. The boast in the funeral oration, however, that democracy recognized and made use of men of ability (Thuc. 2. 37. 1) may go beyond this and may be based in part on the selection by vote of men for embassies and other commissions and on the manner in which the people followed the leadership of such men as Pericles himself. To the enemies of democracy, the practice of electing military commanders by vote and other officials by lot meant that the people used the vote for those offices for which a bad choice

involved danger and the lot for those which brought profit to the incumbent (Ps.-Xen. *Ath. pol.* 1. 3). In any case, democratic theory seems always to have distinguished between offices for routine administration to be filled by lot and offices calling for special ability to be filled by vote. Both democrats and oligarchs seem to have recognized the importance of having the right men in both kinds of offices. The chief difference was that oligarchs tended to wish to increase the number of elected officials and to restrict the offices to be filled by lot to men of property.

To return to the popular assembly, since democratic theory admitted that abilities varied, the claim of the assembly to supremacy cannot have been based on a belief that all men are equal in ability. It must have been based rather on faith in the excellency of the collective judgment, when men of all stations, classes, and abilities got together and, so to speak, combined or merged their individual judgments. This is precisely the point recorded by Aristotle in the passage in which he states that a possible argument for democracy is the claim that the many, not individually but collectively, surpass in judgment the few best (*Politics* 1281a 42). Individually they are inferior but by contributing each his share they create, as it were, a composite personality. As far as political judgment is concerned, this is presented not as a fact but as an argument which carries some weight. On the other hand, it is given as a fact that the many in this manner are better judges of music and of the writings of the poets than are the experts (*ibid.* 1281b 7).

The argument just quoted cannot be Aristotle's own. It is not presented as fully valid, and there are many other statements which show that he was not a democrat at heart. Of the many passages indicating an anti-democratic point of view only a few will be cited. First there is the statement that an agricultural population makes the best *demos*, for it is busy with its own work and does not attend assemblies frequently (1318b 9; cf. 1292b 25). Next best, for similar reasons, is a population of herders (1319a 19). Obviously Aristotle did not like to have members of the lower classes take an active part in the work of the government. Then there is his own ideal state, in which he excludes mechanics, shopkeepers, and farmers from citizenship (1328b 39), and does it on the ground that leisure is necessary for the production of goodness. Those who have to struggle for a living cannot possess the higher virtues or even ordinary political sense. Hence, the tillers of the soil should be slaves or barbarian *perioikoi*, that is, serfs (1329a 25; cf. 1330a 29). No, Aristotle was not a democrat. The doctrine of the collective superiority of the masses must be a survival of earlier democratic theory.

It is possible that back of this theory, in turn, is the faith in human reason seen in Plato and Aristotle in the doctrine of the superiority of the highest reason over law. In their works the doctrine has a tendency to appear in an aristocratic or monarchic setting. Thus Plato in the *Laws* (874 E–875 D), when he discusses the need for laws, claims for men of exceptional ability the right to be above the law, "for no law or no ordinance is superior to understanding (*episteme*), nor is it right for reason to be subject or in thrall to anything, but to be lord of all things."[6] Similar is the statement of Aristotle (*Politics* 1284a 13) that there is no law over men of outstanding ability but that they are a law to themselves. More democratic is a remarkable statement in the *Rhetoric*

(1355a 15): "Men have a sufficient natural capacity for the truth and indeed in most cases attain to it."[7] If such a faith in human reason were combined with the belief in the superiority of the judgment of the people as a whole over experts, the logical outcome might well be the theory that government by decree is superior to government by law. We have no direct evidence that such a theory existed, though it may be implied in Aristotle's vigorous condemnation of government by decrees without regard for law.

Be that as it may, the theory of the superiority of the collective judgment of the people must have been based on the observation that every form of government so far tried had resulted in injustices committed by those governing in the interest of themselves and their own group or class. Hence it might well seem that the only way to avoid abuses due to class interests and the like was by getting the collective judgment of the entire people in which the special interests would, as it were, cancel each other out. Again we have only the evidence of the opposition. It is likely that some such claim as this on behalf of democracy is back of the tendency of its enemies, from the Old Oligarch of the fifth century to Aristotle, to condemn democracy as government by and for the mob and to insist that it, too, is a government in the interest of a class—and the worst one at that.

Connected with the problems of theory is a problem of constitutional history. Did the Athenians ever go so far as to try to get along without any checks on the actions of the assembly on the ground that government by decrees was superior to government by law? If so, this stage did not last long, and it was soon realized that there must be some instrument for correcting mistakes of the assembly due to passion or overly hasty action. To be sure, it was possible for one meeting to undo what an earlier meeting had done, as in the action of the Athenians on the Mytilenaeans in 427 B.C. But there was need also for a procedure by which individuals who were aware of mistakes could call them to the attention of the people. This was found chiefly in the writ against illegality, through which decrees and laws could be declared invalid and their proposers punished. It is hardly necessary to say that the reasons for invalidating measures were not always as strictly legalistic as the title of the procedure seems to indicate. The introduction of the writ is commonly placed immediately after the overthrow of the Areopagus,[8] but all we actually know is that the guardianship of the laws was taken away from the Areopagus in 462, that the writ against illegality was used in 415, and that by 411, at the time of the revolution of the Four Hundred, it was regarded as a cornerstone of the constitution. Whether there had been any intervening period of any length, we do not know.

Placed in its historical setting, the development of democratic theory and government in Greece came naturally enough. The early Greeks had seen monarchy give way to aristocracy and oligarchy, undoubtedly at least in part because some kings had proved inefficient, arbitrary, and harsh. The aristocrats, in turn, proved oppressive and selfish, as Hesiod and Solon inform us. A result was that many concluded that monarchy was better after all. Hence, there not only was a return to monarchy in the form of tyranny, but there obviously were also some who argued for monarchy and defended it in theory. In opposition to this there

developed the idea of responsible government by responsible magistrates called *isonomia*, contrasting with the government of an arbitrary monarch. Hence the debate over these forms of government which seems to have been carried on about the time of the Persian War. The emphasis in the Greek tradition on the harshness of Hippias during the last years of his reign may well be due to the practice of using him in this debate as an example of an arbitrary tyrant. The first advocates of *isonomia* probably were the aristocratic opponents of the tyrants, but already by the time of Aeschylus advocates of popular government had assigned to the people the tasks of holding magistrates to account and making decisions on policy. With this went the belief that the collective judgment of the people was better than that of a small group of aristocrats or oligarchs and, specifically, better than that of the Areopagus. It may be noted that the supremacy of the assembly was something new which had not been tried before. Therefore, it was attractive, and it was justified by a plausible theory. What better judgment could there be concerning the best interests of the community than the collective judgment of all its members?

An obvious objection is that Greek democracy never included the entire community and always excluded slaves and foreign residents. The equally obvious answer is that this is far from the only example in history of a theory or doctrine which was not carried to its logical conclusion. It may also be noted that there is evidence that views were being advocated which tended to break down the barrier between slave and free, Greek and barbarian. Very little of this has been preserved, but we are told, for instance, that Antiphon, the sophist of the fifth century, denied that there was any difference by nature between Greeks and barbarians;[9] that Lycophron denied any validity to the claims to good birth;[10] and that Alcidamas, probably the one listed by Suidas among the pupils of Gorgias, stated that God made all men free and that nature had made no man a slave.[11] Since the latter statement was made in a speech defending the revolt of the Messenians from Sparta, and since *doulos* and related words are used with a multiplicity of meanings, Alcidamas probably meant to deny the injustice both of personal subjection as slave or serf and of political subjection. In defense of the slave there is also the statement in the *Ion* (854–56) of Euripides that only the name brings shame to a slave; in all other respects, if he is only a person of merit, he is no worse than a free man. There may be some doubt whether these arguments reached the people to any extent. The answer is that the works of Aristophanes, particularly the *Clouds*, show that they did, though probably often somewhat distorted. Even more important is the evidence of Aristotle, who attests that, in the opinion of some, slavery is contrary to nature, unjust, and based on force (*Politics* 1253b 20). This statement, as well as Aristotle's own elaborate defense of slavery, implies that the ancient abolitionists had not failed to receive a hearing.

Democracy at first was remarkably successful at Athens. Not only was it able to carry through the reforms of the Periclean Age and to continue for some time thereafter in approximately the same spirit but also to be victorious over the two oligarchic movements of 411 and 404 B.C. After its restoration in 403, except for a few extreme oligarchs, democracy, in fact, attained very nearly universal acceptance. The moderate

oligarchs, the group to which Theramenes had belonged, co-operated in overthrowing the Thirty and in reestablishing democracy and thereafter, when they wished to introduce conservative reforms, followed regular legal procedure. Thus, when Phormisius advocated the restriction of citizenship to landowners, he brought in a motion to that effect only to have it rejected. Democracy apparently could continue unhampered and introduce further reforms.

Such a sweeping victory is often decidedly deceptive, and it was so in the present case. The moderate oligarchs had not become less conservative because they outwardly accepted democracy, but they now bored from within and became, as it were, crypto-oligarchs. Undoubtedly also many of the democrats, after the first disillusionment, became less democratic. A relatively early conservative reform, after the news of the disaster in Sicily had reached Athens, was the creation of ten *probouloi* elected by vote to help guide the state. This apparently meant that, though the *boule* was not abolished, much of the work of preparing the measures to be submitted to the people was taken away from this larger council, which was selected by lot, and entrusted to a small committee elected by vote. The measure seems to have been introduced and passed perfectly regularly. In other words, at least under the pressure of war and disaster, it was possible to convince the popular assembly that such a change was desirable. This illustrates the most vulnerable feature of Athenian democracy. It entrusted to chance comers selected by lot many difficult tasks which could better be performed by experts or men of ability carefully selected for the purpose.

Election by lot was not only the most vulnerable feature of democracy but also the one first to be attacked in the oligarchic reaction against extreme democracy. This does not mean that anything so revolutionary was suggested as the complete substitution of vote for lot, but there was an increase in the number of elected officials and there was an effort to introduce measures to guarantee that even the officials selected by lot should at least be sound and respectable men of property. The earliest reform in this direction seems to have been the creation of the *probouloi* already mentioned. They, of course, were abolished with other oligarchic institutions of the time and did not return in the fourth century. Instead there was an increase in the number of elected officials, such as those in charge of the finances of the state. It even became possible for the same person to guide the financial policy over a long period of years, as in the cases of Eubulus and Lycurgus. There apparently was no measure passed reserving for the more wealthy the offices filled by lot, though this policy was advocated by Isocrates, the most vocal representative of the group of politicians and thinkers who called themselves democrats but really were moderate oligarchs.[12] He may actually have favored election outright, but as far as he seems to have gone was to recommend the choice by lot from candidates elected in advance from the citizens with sufficient wealth to have leisure to serve the state (*Areopagiticus* 22–23, 26–27). This program, as already implied, was not accepted, and members of the lower classes continued to be eligible for the offices filled by lot. Nevertheless, the impression received from inscriptions is that the magistrates of the time commonly were mem-

bers of good families and were men of property. It is likely that with the rising cost of living in the fourth century the small pay for serving the state was not sufficient to enable the poorer citizens to stand for office.[13]

If the magistrates selected by lot were men of property, it is not surprising that the leaders the people chose to follow usually were wealthy. To be sure, the most obvious fact about the leaders of the middle of the fourth century is that most of them were trained rhetoricians or orators, but most of them, like Demosthenes, certainly came from wealthy families. It was rare that a leader came from an impoverished family, as Aeschines did. The latter actually had served as an actor and had been employed as a civil servant. The jibes hurled at him by Demosthenes on these grounds suggest that it was an exception when a political leader had not been brought up in aristocratic leisure. It is even more significant that such jibes were expected to influence the citizens of Athens. It is as though the American voter were to hold it against a presidential candidate that he once had been a barefoot boy in a log cabin. The orators of the time, in spite of political differences, were united by a certain solidarity and looked upon themselves almost as official leaders for whom it was an obligation to give sound advice. For the surrender of the control of the state by the people to a virtual oligarchy, we have the evidence of these orators themselves. Aeschines (*Against Ctesiphon* 233–34) remarks that in a democratic state the common man is king by virtue of law and the ballot and deplores that the masses surrender the mainstays of democracy to the few, but rejoices that there is no crop of knavish and shameless politicians or rhetors, thus indicating that the few he has in mind are the orators who guide the state but who luckily are honorable men. Demosthenes (23. 209) is in substantial agreement when he remarks that in days of old the people was master of the statesmen but now is their servant, while Deinarchus (*Against Demosthenes* 99) goes so far as to accuse the leaders of conspiring to quarrel and abuse each other before the assembly but to co-operate in deceiving the people. Even if this malicious accusation is rejected, it seems safe to conclude that the various leaders at least recognized that their political opponents were relatively respectable men and that they all had something in common. Yet, it must be noted, the assembly continued to be very active in making decisions on policy.

Nevertheless, there was an effort made to diminish the power of the assembly. One form this took at Athens was an effort to restore power to the Areopagus. Even with archons selected by lot, this body of former magistrates serving for life seems to have been relatively conservative. The cause of the Areopagus was one of the central points in the program of Isocrates, who devoted a speech to it. To turn from theory to practice, it may be noted that when the democracy was restored after the overthrow of the Thirty and ordered the laws of Solon and Draco to be revised, it once more entrusted to the Areopagus the task of seeing that the magistrates obeyed the laws.[14] For this proviso our only source is a decree quoted in one of the speeches of Andocides. This gives it, not as an emergency measure of temporary validity, but as a general rule for all future times. The authority over magistrates given by this measure was later, on the motion of Demosthenes, extended to all

citizens (Deinarchus *Against Demosthenes* 62; cf. 67). This enlargement of the power of the Areopagus did not, however, exclude the continued action of the assembly and courts, but the various organs functioned side by side. Nevertheless, there was a marked increase in the power and influence of the Areopagus, and this enabled it to assume leadership in an emergency, as it did after Chaeronea. Decisive proof that contemporary democratic thought tended to suspect the Areopagus has been supplied by an Athenian law of 337/6 B.C. against tyranny and the overthrow of democracy recently published by Meritt. This law, which has been preserved in its entirety, is largely devoted to telling the Areopagites what they must not do in case such an attempt is made. Is it pure imagination to see in this the reaction against the usurpations of the Areopagus on the part of what genuine democratic spirit still survived? And is it significant that the law was proposed, not by Demosthenes or any other leader who is known to have helped to advance the power of the Areopagus, but by the almost unknown Eucrates of Piraeus?[15]

The assembly, however, in spite of all oligarchic tendencies, retained its supremacy at least in theory, and the doctrine of the efficacy of the collective judgment of the masses went unchallenged even by some who were otherwise opposed to extreme democracy. Thus, Isocrates in his *Areopagiticus* (27), after he has argued for the selection of magistrates from the upper classes, continues: "How could one find a democracy more secure and just than this, which places the ablest men in charge of affairs and gives the *demos* authority over them?" This is all the more remarkable, since it is found in connection with an argument for a less democratic selection of magistrates and in a tract directed toward strengthening the position of the Areopagus. Hence it may not reveal Isocrates' own point of view but may rather be an indication that it was unwise to attack this particular feature of the democratic program. It matters little. As long as this one feature of democracy remained, the cause was not entirely lost.

Yet the cause was more nearly lost than the evidence of Isocrates suggests. This is shown by the entirely different attitude of Aristotle to this particular plank in the democratic platform. To be sure, he does once admit that the claim made for the collective judgment of the masses may have some validity, but many other statements show that he did not grant this claim. He himself wished the lower classes to have as little part as possible in the government and he particularly condemned government by decrees rather than by law. If he at times spoke approvingly of the so-called more moderate forms of democracy, these are the words not of one who accepted democracy but of an oligarch who concealed some of his oligarchic leanings behind a democratic vocabulary. Actually Greece was rapidly progressing toward the point of view under which *demokratia* became a laudatory term for any kind of republican self-government so that it was possible, as in a Lycian dedication at Rome, to translate ἡ πάτριος δημοκρατία by *maiorum libertas* (*CIL*, I², 725). How rapid the advance was is shown by the fact that Demetrius of Phalerum, when in 317 B.C. he modified the government of Athens and introduced a property qualification for active citizenship, could claim that he was not overthrowing democracy but improving it.[16] Strabo, who reports this, tells that the Athenians continued to be governed democratically till the Romans came and that

the latter preserved the freedom of the Athenians. Again democracy and freedom are practically synonymous. Democracy had been accepted in theory by all but rejected in practice with almost equal unanimity. The general tendency in the Hellenistic period was toward monarchy in the larger empires, and in Greece itself toward that type of republican government which might call itself democratic but actually was under the control of men of wealth. The Achaean League is an admirable illustration of this.

The early history of Rome has little to offer the student of democracy parallel to what we have found in Greece. Nevertheless, in the period from the Gracchi to Augustus, she experimented extensively with changes in the method of voting. This began with the first introduction of the secret ballot in 139 B.C. The movement is usually given little attention, but there are indications that a debate on forms of government involving proposals for practical reforms continued to the reign of Augustus and even Tiberius. The movement can hardly be called democratic, certainly not in the sense of the democracy of fifth century Athens, but it does represent an effort to improve the government after other methods had failed. The earlier development of Rome we shall have to pass by. There were reforms culminating in the Hortensian Law of 287 B.C. giving plebiscites the force of law which seem to point toward democracy. Yet, it is well known that not so long after this Rome was governed by a senatorial aristocracy into which it was hard for new men to make their way. Just how much of a genuine popular opposition there was to this development it is difficult to say. For the Gracchan period, it is likely that the less publicized laws concerning the secret ballot indicate a much more genuine popular movement than the Gracchan legislation itself. The Roman assemblies had many handicaps as instruments for democratic or popular government but probably none was more important than the old practice of taking the vote orally, which enabled men of influence and wealth to control the vote of clients and dependents.[17] All this was changed by the adoption of the secret ballot through a series of laws passed in 139, 137, 131 and 107 B.C.

For proof that this was a genuinely popular movement we have to turn to the opponents of the measure and observe how bitterly they resented the reform. Most important is the discussion in Cicero's *De legibus* (3. 33–39). It will be remembered that this is a dialogue in which Marcus Cicero himself, his brother Quintus, and his friend Atticus are the interlocutors. Marcus had included in the draft of an ideal constitution a clause which, as he later explained, was intended to restore the control of the Optimates but give the voters the feeling that they still had the secret ballot. Apparently the very thought of the secret ballot aroused the ire of the other two. Marcus answers that in his opinion oral voting is better, but it is a question of what is practicable. Quintus retorts that it is better to be overpowered than to give in to a bad cause. The *lex tabellaria*, here used collectively for the laws introducing the secret ballot, had completely destroyed the influence of the Optimates. There had been no call for such laws when the people was free, but demand came when the people was oppressed by powerful men. He then proceeds to sketch the laws and blacken the reputation of their proposers. Atticus supports this position with the remark that he does not like any popular—or shall

we say "democratic?"—measures (*mihi vero nihil umquam populare placuit*). Marcus' defense of his proposal need not delay us except to note that he obviously wished to trick the people into acquiescing in the leadership of the Optimates. Further evidence for the opposition to the secret ballot is to be found in some remarks by the younger Pliny (*Ep.* 3. 20) in connection with its adoption in the senate for use at elections. He refers to the controversy it had aroused formerly and seems surprised that a measure once so bitterly resented should now be adopted unanimously by the senate. A second handicap to the successful functioning of a primary assembly at Rome was the size of the state and the citizen body. This difficulty had been felt in Greek states but obviously was more acute at Rome. Moreover, the fact that the city itself grew so large and that thus a great number of citizens was at hand in the capital was an additional handicap, for it tended to give the control of the assembly to the city mob. From the modern point of view the obvious cure would be the substitution of a representative assembly for the primary assembly for legislation, and the introduction of the practice of taking votes at elections in other places than in Rome itself. Both expedients were debated and to some extent tried. Since you may think this assertion is made on flimsy evidence, let me ask you to remember that the debate on the secret ballot supports the conclusion that the details of the machinery of government were given serious consideration at the time.

Representative government was tried in Italy, as far as we know, not by the Romans themselves but by their opponents in the Marsic War. The chief organ of the central government was a representative council of five hundred members granted full powers for the duration of the war.[18] The evidence is not quite what we should like, but there are a number of statements in Livy which suggest that ideas of the kind were in the air at the time. We are told that the Latins before the outbreak of the war in 340 B.C. demanded that one consul and half the senate should be Latin; on these terms the Romans and the Latins were to be merged into one state (Livy 8. 5. 5). After Cannae a Roman senator is said to have suggested that two men from each Latin city be granted Roman citizenship and given membership in the senate to fill up vacancies. This suggestion met with almost as angry opposition as had the demand of the Latins.[19] At about the same time the Campanians are reported to have demanded that one of the consuls should be a Campanian. This, says Livy, was reported by some annalists but omitted by others, and not unnaturally so, since the demand was suspiciously like that once made by the Latins. Hence Livy himself is afraid to report this incident as indubitably true.[20] The fact that these incidents are reported is more important than the problem of their historicity. It is evidence that such ideas and measures were being discussed. Livy's reference to earlier annalists shows that the discussion was not new when he wrote. Hence, since ideas concerning representation crop up at other times, there is reason to accept the report about the representative character of the government of the revolting allies. It is fairly certain also that the idea was not immediately dropped. It seems, for instance, that some idea of representation was back of Claudius' appeal for the admission of Gauls to the senate and of the later admission of senators from

other provinces. Otherwise the movement did not lead to any practical advances except in so far as it inspired the development of provincial assemblies in the western provinces. In neither case was the development of effective representative government carried far.

Another line of experimentation was concerned with the method of conducting the elections of the higher magistrates. It has long been known that Augustus had introduced a measure providing that for elections the *decuriones*, the members of the city councils, in his colonies throughout Italy were to cast their votes at home in advance and send them to Rome in sealed boxes.[21] Apparently there is no evidence for the taking of votes in the manner provided for by Augustus and so the measure has received scant attention. Now, however, the evidence of the *Tabula Hebana*, an inscription discovered a few years ago,[22] shows a different kind of experiment with the same problem. It indicates that in A.D. 5 a bill had been passed providing for the *destinatio* of consuls and praetors by a *comitia* of ten centuries of knights and senators. To this the bill of A.D. 19 contained in the *Tabula Hebana* added five additional centuries. The *destinatio* was the advance selection of magistrates later to be elected by the regular *comitia centuriata* and so need not have caused the system of taking the votes of *decuriones* at home to be abandoned but, since it practically decided the issue in advance, it greatly decreased the importance of the action of the larger *comitia*. When the use of the special centuries of the *Tabula* was abandoned and the actual selection of magistrates fell to the senate is not known. All we know is that the simple story we once learned about the transfer of the elections from the people to the senate has to be modified. The new story probably will show that these measures represent a protracted experiment, not with democracy, but with improved methods of electing magistrates without leaving the entire task to the emperor.

To reconstruct boldly but tentatively, it looks as though Augustus was aware of the trouble caused in the assemblies by the city mob but had observed that, as a former president of the American Philological Association has argued,[23] the centuriate assembly was more nearly under the control of the aristocrats and the upper class Italians than the *tributa*. He probably thought that facilitating the voting of the *decuriones* in the colonies throughout Italy would be enough to assure the control of elections by the saner elements in the state. This very narrow oligarchic reform was probably as democratic a measure as any Augustus fathered. Apparently it did not work, and so the actual selection was shifted first to a body of senators and knights and later to the senate alone, that is, in so far as the emperor did not actually select the magistrates himself. The further story of the development of the Principate into an almost absolute monarchy, a process which for Greek lands meant the substitution of the Byzantine monarchy for Periclean democracy, does not concern us here. Nor is there any reason for tracing here the curious things that happened to the word democracy under the Roman Empire. It is enough to note that Rome, which probably never was really democratic, abandoned even more conservative forms of republican government and the active participation even of most of the higher classes in directing the policies of the state. But Rome did not do this without first debating and to some extent trying out various remedies.

Thus both Greece and Rome surrendered to monarchy, though long retaining some traditions of self-government in local affairs. The greatest contribution of Greece was the theory of the superiority of the collective judgment of the people—a doctrine without which, expressed or implied, democracy is impossible. Her second contribution was her actual experiment with democracy. This continued long enough to include a prolonged effort, both by friends and enemies, to change or reform democracy. As long as this involved primarily such measures as remedies for overly hasty action on the part of the assembly and other agencies of government and retained the ultimate supremacy of the people, there remained hope, but finally Greece completely abandoned democracy and turned to forms of government which already had been tried and found wanting. Rome, the state which has transmitted to us the idea that the people is the source of law, never developed a government as democratic as that of Athens. Yet, before she finally surrendered almost completely to strong men and monarchy, she too experimented with reforms in the machinery of the old republican government. Thus, while the Athenians normally voted in the assembly by show of hands, Rome adopted the secret ballot. If this was a part of a genuinely democratic movement, the latter did not for long remain effective. At the time of the establishment of the Principate, there was no thought of government by the people, and the most that Augustus looked for was the co-operation of the upper classes. The rejection of democracy must have been complete, and most of those in a position to influence the government probably shared the opinion expressed by the younger Pliny (*Ep.* 9. 5. 3) that nothing is more unequal than equality. In any case, the final verdict of the ancient world seems to have been that everything else had failed and that the only choice left was monarchy. Forward-looking observers might have remarked that it too had failed before and was certain to fail again, and that the adoption of monarchy was nothing but a counsel of despair.

Is this the final lesson which we are to learn from antiquity, that all forms of government have failed and will fail again? I think not, that is, unless we view institutions from the point of view of an eternity in which nothing human is permanent. There is hope, but this hope does not come from those modern inventions which, as in the case of the atomic bomb, raise more problems than they solve. To be sure, certain modern inventions help to make possible democratic government over a larger area than was practicable in antiquity. Otherwise, hope depends on avoiding the mistake of the ancients of abandoning popular government. We need to recover faith in the collective judgment of the people and to continue to keep the ultimate control of government in the hands of the voters while attempting to reform our system in such a way that the control can be effective and intelligent. To accompish this we should avoid calling for a referendum on a point so technical that neither voters nor legislators but only experts can understand it, and we should reduce the number of officials directly elected by the voters to one so small that it is possible to know something about the candidates and to judge them. Even so some mistakes due to passion and ignorance would be inevitable, but, if the issues presented to the voters were few enough, clear enough, and fundamental

enough, democracy would have some hope of functioning. At present there seems to be a double tendency at work. On the one hand, the ballot remains so complicated as to be confusing; on the other hand, there is a tendency to leave everything to one huge bureaucracy, which, if the tendency continues, will be checked only occasionally at a national election. We need more machinery for holding our officials—our servants rather than our masters—to account. Otherwise, we do not need the example of Rome to teach us that, if we ultimately depend on one organism for everything and that organism fails, there is nothing left.

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NOTES

1. "Cleisthenes and the Development of the Theory of Democracy at Athens" in *Essays in Political Theory Presented to George H. Sabine* (1948), pp. 1–16.

2. A. Debrunner, Δημοκρατία in *Festschrift für Edouard Tièche* (1947), pp. 11–24. The article is important as showing that *demokratia*, a word in which the first part of the compound denotes the subject rather than the object of the action, does not represent a normal type of noun formation. On this point the author's interpretation is careful and precise, but he interprets loosely in some of the cases in which he takes δῆμος as the name of a form of government (p. 21). Most surprising is the misinterpretation of Herod. 1. 170. 3, where the meaning rather is "demes," i.e., communities similar to the demes of Attica (cf. the commentary of Stein). More plausible examples of the desired meaning can be found in Herodotus, but cf. Larsen, *Essays Presented to Sabine*, p. 6, n. 16. In my opinion Debrunner also mistranslates πολίτευμα δὲ εἶναι ἐν χίῳ δῆμον in Alexander's edict on the restoration of exiles at Chios (*SIG*^{3}, 283; Tod, 192). To be sure, LSJ lists the passage both for δῆμος in the meaning, "popular government, democracy," and for πολίτευμα in the meaning, "form of government." But surely πολίτευμα must mean the body of active citizens or voters, as in Ptolemy's nearly contemporary *diagramma* to the Cyrenaeans, in which the word (*SEG*, IX, 1. 5, 6, 28, 31, 43) refers to a smaller body in comparison with the *politai* or all adult male citizens. Alexander proclaims that at Chios the *demos* is to constitute the *politeuma*, i.e., that all adult male citizens are to be active citizens. This was not the case at Cyrene, where there was a property qualification for membership in the *politeuma*. Of course, at Chios the result of the compliance with the instructions would be the establishment of democracy. To examine such expressions as δῆμον καταπαύειν (Thuc. 1. 107. 4), would take us too far afield, but, in all likelihood, δῆμος here too, at least originally, meant the people rather than democracy; cf. the reference to the overthrow of the Four Hundred in Thuc. 8. 97. 1.

3. V. Ehrenberg, "Origins of Democracy," *Historia*, I (1950), 515–48 at 534. Besides the articles by Debrunner and myself he lists as favoring a late date for the origin of democracy also H. Schaefer, "Besonderheit und Begriff der attischen Demokratie im 5. Jahrhundert," *Synopsis, Festgabe für Alfred Weber* (1948), pp. 477–503. This interesting but subjective article does not deal in detail with the evidence discussed in the present paper. To Professor Ehrenberg I owe thanks not only for enlightenment on many points and for the courtesy of sending me a reprint but also, since we agree on so much, for encouragement and support.

4. *Essays Presented to Sabine*, p. 10.

5. O. Schulthess, *Das attische Volksgericht* (Bern, 1921), p. 19; R. J. Bonner, *Lawyers and Litigants in Ancient Athens* (1927), p. 37, cf. 74f.; Bonner and Smith, *The Administration of Justice from Homer to Aristotle*, I (1930), 226.

6. Modified slightly from the translation of R. G. Bury in the Loeb edition.

7. Translation by Freese in the Loeb edition.

8. So G. Busolt, *Staatskunde*, p. 896 and n. 1; Glotz and Cohen, *Histoire grecque*, II, 140; H. Bengtson, *Griechische Geschichte* (1950), p. 184. For the use of the writ in 415 see Andocides 1. 17; cf. Bonner and Smith, *Administration of Justice*, I, 265.

9. Antiphon, Frag. 44 B, col. 1 line 35–col. 2 line 35 (Diels-Kranz^6, II, 352–53); cf. W. Jaeger, *Paideia*, I (Eng. ed., 1939), 326–28; E. Barker, *Plato and his Predecessors*^{3} (1947), pp. 66–69; P. Merlan, "Alexander the Great or Antiphon the Sophist?" *CP*, XLV (1950), 161–66. For a different interpretation see T. J. Haarhoff, *The Stranger at the Gate*, p. 15.

10. Arist., Frag. 91 (Rose).

11. Alcidamas, Frag. 1 (Baiter-Sauppe, *Oratores Attici*, II, 154).

12. On this point, though not expressed in quite the same way, cf. G. Mathieu, *Les Idées politiques d'Isocrate* (1925), p. 138.

13. On this point cf. P. Cloché, *La Démocratie athénienne*, p. 216.

14. Andoc. 1. 84; cf. Bonner and Smith, *Administration of Justice*, I, 277f.

15. For the inscription see B. Meritt, *Hesperia*, XXI (1952), 355ff., No. 5 (cf. also XXII, 129); for Eucrates, see also *PA*, No. 5762. It seems that Eucrates hitherto has been known only from a reference by Lucian *Dem. enc.* 31. The absence of information in other sources caused the evidence of Lucian to be suspected; it has now been vindicated, as Meritt remarks. Lucian even gives the deme correctly. Apparently Eucrates was a political leader of some importance, probably overshadowed by the greater figures of the period and neglected and belittled by an anti-democratic tradition. Yet Lucian's evidence proves that something was known about him over four hundred years after his death.

16. Strabo 9. 398, apparently quoting from Demetrius' own account.

17. On the voting in the assemblies see F. B. Marsh, *A History of the Roman World from 146 to 30 B.C.* (1935), App. 2, pp. 370–77; L. R. Taylor, *Party Politics in the Age of Caesar* (1949), chap. iii; Larsen, "The Origin and Significance of the Counting of Votes," *CP*, XLIV (1949), 164–81 at 180f.

18. Diod. 37. 2; Strabo 5. 241. For the interpretation adopted here see T. Frank, *Roman Imperialism*, p. 301 and n. 11 on p. 311; J. Carcopino, *Histoire romaine*, II, 368f.; H. Last, *CAH*, IX, 186f. is skeptical.

19. Livy 23. 22. 4–6; Frank, *Imperialism*, p. 299; J. S. Reid, *Municipalities of the Roman Empire* (1913), p. 87.

20. Livy 23. 6. 6–8; Reid, *loc. cit.*, also accepts this incident as historical.

21. Suet. *Aug.* 46. I agree with Last, *CAH*, X, 462, n. 1 in rejecting the attempt of V. Gardthausen (*Augustus und seine Zeit*, I, 582f. and II, 315, n. 8) to emend the text so as to extend the privilege to all the citizens of the colonies.

22. For the text see F. de Visscher, F. della Corte, C. Gatti, and M. A. Levi, *Parola del Passato*, V (1950), 98–107; cf. Ugo Colli, *ibid.*, VI, 433–38 for an additional fragment containing the first part of the first eleven lines.

23. L. R. Taylor, *op. cit.*, pp. 50–62.