among the propertied classes and thereby weakened them.[16] The neutrality of the lot (in addition to its religious significance) further enhanced the efficacy of the rallying point: the first centuries were less reluctant to follow the path laid down by the initial vote because it appeared to have been traced, at least in part, by something external, neutral, and impartial.[17]

The second way in which lot contributed to the cohesion of the centuriate assemblies was a somewhat different effect on the lower classes. If the centuries of the higher classes had followed the lead offered by the gods in the vote of the prerogative century, as usually happened, the units lower down the census hierarchy did not vote; however, the fact that the final outcome appeared to flow from a neutral phenomenon and a supernatural sign must have made that outcome easier to accept for those who had not been balloted.

Lot also played a part in *comitia tributa*, though less is known about how it operated there. In such assemblies, lot was used differently depending on whether the meeting was passing laws or trying cases on the one hand, or electing the lower magistrates on the other. At legislative or judicial meetings of the *comitia tributa*, the tribes voted one after another. It was therefore necessary to determine which tribe should vote first. The others would vote in a fixed sequence (*ordo tribuum*), about which little seems to be known except that it was not hierarchical. Lot in fact determined at which the point in the *ordo tribuum* voting should begin. The tribe voting first was identified by a particular term (*principium*) and was in a way the equivalent of the prerogative century in centuriate assemblies.[18] The result of each tribe's vote was announced soon after it had finished voting, but while the others were still casting their votes. Balloting halted as soon as a bill or verdict had been decided upon by a majority of tribes (i.e. eighteen votes, since there were thirty-five tribes). Consequently, for legislative and judicial votes in the tribal assemblies, the use of lot must have produced the same effects as in centuriate assemblies: the religious quality and neutrality of lot encouraged voting to crystallize around the first vote

[16] See Meier, "Praerogativa Centuria," p. 584.
[17] The unifying effect of the neutrality of lot is particularly emphasized in Staveley, *Greek and Roman Voting*, p. 155.
[18] Nicolet, *Le métier de citoyen dans la Rome antique*, pp. 383–4; English edition, pp. 283–4

while making it easier for the tribes that had not been balloted to accept the result. However, unlike the outcome of the centuriate assemblies, in this case the cohesive effect did not redound to the benefit of any particular class.

When, on the other hand, the *comitia tributa* elected magistrates, all tribes voted simultaneously, so there was no need to determine which tribe should vote first. However, lot was used to decide which tribe's vote should be counted first. A candidate was declared elected as soon as he had obtained eighteen votes: the count was then stopped. As it happened, certain peculiarities of the voting procedure meant that the order of counting was not unimportant: it could lead to declaring the election of a candidate who, if all the votes had been counted, would have obtained fewer votes than another. Here again, the religious quality of the lot, as well as its neutrality, played a part, helping to make the result acceptable to those whose votes had not been counted.

Unlike the Athenians, then, the Romans did not use lot for its egalitarian properties. In the census-based Roman republic, lot chiefly had the effect of drawing votes together and promoting political cohesion, first among the propertied classes and then among the people as a whole, because of its neutrality and the religious interpretation that was placed on it.

The Italian city-republics

The early Italian communes founded in the eleventh and twelfth centuries used lot to select their magistrates.[19] In the initial period the methods for selecting members of the councils and other offices were subject to constant experiment. Three procedures appear to have been used most frequently: indirect election, that is, a system whereby the first selection determined the personnel of the electors who made the final choice; designation by the outgoing councilors or officials; and finally sortition, often called "election by lot." "The intention both of indirect election and of lot," writes Daniel Waley, "was to hinder the domination of city politics by cliques, who might prolong their control by securing the choice of members of their

[19] On the Italian communes in general, see Daniel Waley, *The Italian City Republics*, 3rd edn (London: Longman, 1988).

own faction."[20] Throughout the history of the Italian city-republics, the political scene was dominated by factionalism. But the phenomenon of factions cannot be separated from the high value that citizens attached to political office. Citizens ardently strove to reach the "honors and benefits" of office, and the conflicts between factions turned primarily on office-holding. The desire for office may be seen in an idealized way as an expression of a certain idea of human excellence: man fulfills his nature as a political animal by holding office.[21] But in more mundane terms, the consuming desire for office fueled factional conflicts. The history of the Italian city-republics can also be read as the bitter experience of the divisions generated by the desire for public office.

It was to overcome the disrupting effects of factions that, in the early thirteenth century, most communes established a *podestà*, that is, a single executive magistrate, more specifically entrusted both with judiciary and policing powers. A Genoese chronicler wrote in 1190: "*Civil discords and hateful conspiracies and divisions* had arisen in the city on account of the mutual envy of the many men who *greatly wished to hold office* as consuls of the commune. So, the sapientes and councillors of the city met and decided that from the following year the consulate of the commune should come to an end and they almost all agreed that they should have a *podestà*."[22] The most notable characteristic of the *podestà* was that he had to come from outside the city, and preferably not from a neighboring commune, in order to be "neutral in its discords and conspiracies."[23] The use of lot in the early Italian communes should primarily be seen in this light.

There is a striking formal analogy between the institution of the *podesteria* and the practice of lot, even though the *podestà* was elected and not selected by lot. The common element is that in both cases recourse was made to something external and neutral to overcome factional strife. In the Italian cities, the crucial property of lot appears to have been that it shifted the allocation of offices to a procedure that was not subject to human influence. On the one

[20] Waley, *The Italian City Republics*, p. 37.
[21] This is the overall interpretation put forward by Pocock in his book, *The Machiavellian Moment*, *passim*.
[22] Waley, *The Italian City Republics*, p. 41. My emphasis.
[23] *Ibid.*

hand, an outcome determined by lot was more acceptable to conflicting factions on account of its conspicuous impartiality. On the other hand, placing the decision beyond reach prevented the divisive effects of open competition among factions. The practice of sortition and the institution of the *podesteria* can thus be seen as variations on a common theme: the peacekeeping potential of externality. In any case, that the use of lot came to be seen as a solution to the problem of factions (whether or not it was introduced for that reason) is borne out by the following comment by Leonardo Bruni on the introduction of lot in fourteenth-century Florence: "Experience has shown that this practice [selection of magistrates by lot] was useful in eliminating the struggles that so frequently erupted among the citizens competing for election ..."[24] Bruni continues, in the same passage of his *Histories of the Florentine People* (1415–21), by criticizing the use of lot, because when citizens must compete for election and "openly put their reputation on the line," they have an incentive to conduct themselves well. This incentive is of course removed when office-holders are selected by lot, and Bruni deplores the absence of this incentive. But his ultimate opposition to the use of sortition serves to underscore the principal merit he recognizes in this practice.

The search for external and neutral mechanisms in the appointment of office-holders appears as a constant feature of Italian republican thought. Another instance of this quest can be found in the "Discorso di Logrogno" by Francesco Guicciardini (1512). In this reflection on the government of Florence, Guicciardini proposes to extend the membership in the Great Council (the body electing the magistrates) to a greater number of citizens (compared to the actual membership of the Florentine Great Council). Both the specific content of Guicciardini's proposal and its justification deserve particular notice. He proposes in fact to extend the membership in the Great Council to citizens who would *not* be eligible for office: these citizens, he argues, would constitute impartial arbiters whose judgment could not possibly be swayed by their personal ambitions.[25] According to Guicciardini, elections are divisive, and when

[24] Cited in John M. Najemy, *Corporatism and Consensus in Florentine Electoral Politics 1280–1400* (Chapel Hill: University of North Carolina Press, 1982), pp. 308–9.
[25] "Del modo di ordinare il governo popolare" [1512] (this text is commonly called

the electors can themselves be elected factional interest prevails, since the judges are also interested parties. In order to promote the common good, Guicciardini argues, the citizens, or at least part of them, should not have a personal and direct interest in the outcome of the electoral competition; they should only judge, from outside, the comparative merits of men that come forward as candidates. Like Bruni, Guicciardini was not in favor of lot; he too preferred elections. His proposal aims precisely at combining the beneficial effects of elections and the impartiality of an external and therefore neutral agency. Guicciardini's proposal is remarkable for its rather unexpected (but potentially far-reaching) justification of the extension of voting rights, but more importantly in its search for neutral institutions that could mitigate the divisive effects of competition for office. Within this central problematic of the political culture of the Italian city-republics, lot appeared as one external and neutral device.

Florence

Florentine constitutional history brings to light more precisely the different dimensions of the use of lot.[26] The Florentines used lot to select various magistrates and the members of the *Signoria* during the republican periods. Actually, Florentine institutions went through many developments and upheavals between the fourteenth and sixteenth centuries. So, a brief chronological outline may be in order.

To simplify, two republican periods can be distinguished. The first extended from 1328 to 1434. The Florentine republic had been

the "Discorso di Logrogno"), in F. Guicciardini, *Dialogo e discorsi del Reggimento di Firenze*, a cura di R. Palmarocchi (Bari: Laterza, 1931), pp. 224–5.

[26] On Florence, see N. Rubinstein, "I primi anni del Consiglio Maggiori di Firenze (1494–1499)," in two parts in *Archivio Storico Italiano*, 1954, Issue 403, pp. 151 ff. and Issue 404, pp. 321 ff. N. Rubinstein, "Politics and constitution in Florence at the end of the fifteenth century," in Ernest F. Jacob (ed.), *Italian Renaissance Studies* (London: Faber & Faber, 1960); Gene A. Brucker, *Florentine Politics and Society 1342–1378* (Princeton, NJ: Princeton University Press, 1962); Nicolai Rubinstein, "Florentine constitutionalism and Medici ascendancy in the fifteenth century," in N. Rubinstein (ed.), *Florentine Studies: Politics and Society in Renaissance Florence*, (Evanston, IL: Northwestern University Press, 1968); Gene A. Brucker, *The Civic World of the Early Renaissance Florence* (Princeton, NJ: Princeton University Press, 1977); Najemy, *Corporatism and Consensus*.

in existence since the thirteenth century, but certain important reforms were adopted in 1328, and a relatively stable (though not untroubled) republican institutional system emerged that lasted until the Medici first came to power in 1434. From then until 1494, the Medici kept up an appearance of republican structure but in fact controlled the government with the aid of their clients and various subterfuges. Consequently, the regime that functioned during that sixty-year period is not generally regarded as republican. The republic was resurrected with the revolution of 1494, in which Savonarola played a key role, and remained in place until 1512. In that year the Medici returned to power and again dominated the city for another fifteen years. The republic was briefly revived one last time between 1527 and 1530 before finally collapsing and giving way to an hereditary form of government, the Medici-controlled duchy of Tuscany. To simplify the analysis, we shall here consider the institutions that functioned from 1494 to 1512 and then from 1527 to 1530 as forming a single period, which we shall call the second republican system.[27]

In both the first and second republican systems, the citizens had to be approved by a scrutiny (*squittinio*). The names of those who received more than a certain number of favorable votes were placed in bags (*borsellini*) from which the names of those who would accede to magistracies were then drawn at random (in particular, the nine magistrates of the *Signoria*, the twelve *Buoni Huomini*, and the sixteen *Gonfalonieri*, the magistrates of the different Florentine districts). In scrutinies, voting was secret. The names that were submitted to the *squittinio* had themselves been chosen by a preselection committee whose members were known as *nominatori*. It was in the methods used for this nomination and for the scrutiny that the institutions of the first and second republican periods differed.

Another feature of both republican periods was the existence of provisions which guaranteed rotation in office, the *divieti*. These were prohibitions which prevented the same office from being assigned to the same person or to members of the same family several times in succession during a given period. The members of

[27] The best source of information about this second republican system is Donato Giannotti, "Discorso intorno alla forma della repubblica di Firenze" [1549], in *Opere Politiche e Letterarie*, 2 vols. (Firenze: Le Monnier, 1850), Vol. I, pp. 17–29.

the *Signoria* were replaced every two months; the other magistrates' terms of office lasted a bit longer. The Florentine republic thus echoed the kind of combination of lot and rotation that typified the Athenian democracy.

In the fourteenth century, access to the magistracies was in part controlled by the *Ottimati*, the aristocracy of large merchant families and leaders of the major corporations. It was possible for non-aristocrats (e.g. middle-ranking merchants or artisans) to rise to office, but only if they had been approved by the elites of wealth and birth, who dominated the committee which decided who would be "scrutinized."[28] By contrast, the body that, through the *squittinio*, approved or rejected the names put forward was more open. It numbered some hundred members (*arrotti*) elected by citizens who had themselves been drawn by lot.[29] Thus, the names that were finally placed in the bags after the *squittinio* had been approved twice: once by the aristocracy, and once by a wider circle.

At the end of the fourteenth century, this complex system was regarded as guaranteeing impartiality in the selection of magistrates and as guarding against factions. Its very complexity appeared to shield it from manipulation by individuals and clans: no one could control every stage of the process or steer the result as he wished.[30] The part played in the final stage by the neutral, unmanipulable mechanism of lot was largely responsible for generating this feeling

[28] The composition of this preselection committee in the fourteenth century is analysed in detail by Najemy, *Corporatism and Consensus*, p. 122. In the fourteenth century, the *nominatori* might choose the names put forward for the *squittinio* without restriction from among all citizens of Florence, i.e. all male taxpayers who had reached their majority (they alone being considered *cittadini* in the full sense, the rest being simply "inhabitants of Florence"). The total population of Florence fluctuated during the fourteenth century between 50,000 and 90,000 (including women and children); see Najemy, *Corporatism and Consensus*, p. 177. In the 1350s, around 3,500 names were put forward for the *squittinio*. In 1382, that number rose to 5,350, and in 1433, one year before the Medici first seized power, it reached 6,354 (see Najemy, *Corporatism and Consensus*, pp. 177, 273, 275).

[29] The procedure was to select by lot twelve consuls from the twelve major guilds and fifty-five citizens whose names had been approved on the occasion of earlier scrutinies for different offices (the Priorate, the twelve *Buoni Huomini*, the *Gonfalonieri*). These sixty-seven persons designated by lot subsequently chose the 100 electors (*arrotti*) who voted in the scrutiny. On the composition of the body that carried out the *squittinio* in the fourteenth century, see Najemy, *Corporatism and Consensus*, p. 122.

[30] *Ibid.*

of impartiality. Florence was no different, in this respect, from the other Italian republics.

However, the Florentine experiment reveals a further dimension in the use of lot. The procedure had been introduced in Florence for the first time in 1291, but this initial experiment proved short-lived. The combination of scrutiny and lot that became one of the cornerstones of Florentine republicanism was actually established by the ordinances of 1328. The prologue to the new ordinances described the object of the reform (and hence also of the use of lot) as follows: "Those citizens of Florence, who shall be approved by the favourable consensus of the good and law-abiding citizens as worthy and sufficient in their life and customs, may *in a fair measure* achieve and ascend to the honours [of political office]."[31] The Florentines had no more desire than the Athenians to be governed by incompetent or unworthy citizens. The *squittinio* served to eliminate these (while of course also lending itself to partisan ends). In Florence, therefore, it was the judgment of others and not, as in Athens, voluntarism combined with the prospect of sanctions, that was meant to ensure the elimination of the incompetent. But among those considered worthy and capable of holding office (i.e. those who had obtained the required number of votes in the scrutiny), lot was deemed to effect a more equitable distribution. That is why the 1328 ordinances were presented as guaranteeing greater equality of access to public office and would be remembered as such.[32] The belief, however, in the egalitarian and democratic character of lot did not establish itself at one stroke, nor was it as unquestionable in Florence as it was in Athens. For some time, indeed until the very last years of the fifteenth century, the actual properties of lot (and of elections) remained problematic. One can see hesitations, fluctuations, and reversals on this subject in Florentine political debates.

Although lot was explicitly associated with political equality in 1328, no such association was made when lot was introduced for the first time in 1291.[33] Bruni's aforementioned comment suggests that at that time lot was seen primarily as a neutral and external

[31] Quoted in Najemy, *Corporatism and Consensus*, p. 102 (my emphasis).

[32] On this point, see also Rubinstein, "Florentine constitutionalism and Medici ascendancy in the fifteenth century," in N. Rubinstein (ed.), *Florentine Studies*, p. 451.

[33] Najemy, *Corporatism and Consensus*, pp. 31–2.

mechanism that would obviate factional strife. After 1328, and for the rest of the fourteenth century, the corporations, which constituted the popular element of the Florentine social and political system, showed a particular attachment to lot.[34] A century later, however, when the republic was reestablished following the first Medici period (1434–94), there was a new period of doubts and hesitations concerning the effects of lot.

The major innovation of the revolution of 1494 was the establishment of a Great Council on the Venetian model. It was decided at that time that all members of the Great Council should participate in the selection of magistrates and would themselves be eligible for office.[35] Preselection of the names put forward for election was retained, but the aristocracy lost its control: the *nominatori* were henceforth chosen by lot from among the members of the Great Council.[36] The big question, however, was deciding what selection procedure the Great Council should use. Should they keep the combination of *squittinio* and lot that had operated during the first republican period (with all names receiving more than a set number of votes being placed in the bags from which they would be drawn at random), or should a new system be adopted that made no use of lot but assigned magistracies to those who had obtained *the most votes in favor* (*le più fave*) at the time of the *squittinio*?[37] The second

[34] After the defeat of the Ciompi revolt, certain leaders of the popular movement suggested abolishing the practice of drawing lots in order to prevent aristocrats hostile to the people from being nominated to the *Signoria*. When the guilds were consulted, it emerged that their base did not follow them on this point. See Najemy, *Corporatism and Consensus*, pp. 257–9.

[35] The reform of 1494 decided two things: (1) the Great Council should henceforth include all whose names had been approved by *squittinio* for the most prestigious executive magistracies (the *Signoria*, the twelve *Buoni Huomini*, the sixteen *Gonfalonieri*) or whose fathers or grandfathers had been approved by *squittinio* for those same offices; (2) on the other hand, every three years the Great Council should choose sixty citizens from among those who paid taxes and belonged to families with members who had held office in the past. Those sixty citizens would then themselves become members of the Great Council. Around the year 1500, the Great Council had just over 3,000 members out of a population of approximately 70,000 (including women and children); see Felix Gilbert, *Machiavelli and Guicciardini: Politics and History in Sixteenth Century Florence* (Princeton, NJ: Princeton University Press, 1965), p. 20.

[36] See Donato Giannotti, "Discorso intorno alla forma della repubblica di Firenze" [1549], in Giannotti, *Opere Politiche e Letterarie*, Vol. I, p. 20.

[37] Voting was done with black and white beans; hence the expression *le più fave*.

system clearly constituted an election. A debate was thus launched concerning the relative merits of election and lot.

The revolution of 1494, which overthrew the Medici, was achieved through an alliance between a section of the *Ottimati* and the *Popolani* (the lower classes, comprising artisans, small merchants, and shopkeepers). The key problem during the last years of the fifteenth century was knowing which of these two groups would have the upper hand in the new republican regime. Those involved believed that the answer to the question depended on what procedure the Great Council was going to employ. Remarkably, for some years the principal actors appear to have been uncertain about the respective effects of lot and election. Each of the two camps wondered which method of selection would be to its advantage. In his fascinating articles, Nicolai Rubinstein has documented in detail the fluctuations and hesitations of those involved in this debate.[38]

This crucial episode of Florentine constitutional history may be roughly divided into three brief periods. In the first (Nov. 9–Dec. 2 1494), the decision was made to restore the institutions of the first republican system. In other words, it was decided, after a brief transitional period, to go back to selection by lot. The *Ottimati* seem to have believed at that point that the combination of scrutiny and lot would restore the predominant influence that they had enjoyed in the fourteenth century. Their preference for lot may also have reflected their attachment to established and traditional procedures. Last, the *Ottimati* were afraid that elections might bring back to power the clients of the Medici. In a second period (December 9–23, 1494), in response to the dissatisfaction of the *Popolani* with the first reform, steps were taken in the direction of a more popular government. This second period saw the peak of Savonarola's influence and culminated in the radical reform of December 22–3, when the Great Council was created. Another aspect of the reform, however, was the substitution of election for lot in the appointment to the *Signoria*. Savonarola appears to have played a key role in this second decision. He strongly favored elections, which he regarded as integral to popular government.[39] At this point, then, the popular

[38] Rubinstein, "I primi anni del Consiglio Maggiori di Firenze (1494–1499)", parts I and II, and Rubinstein, "Politics and constitution in Florence."

[39] *Ibid.*, p. 178.

movement apparently believed that elections would operate in its favor. Yet simultaneously the *Ottimati* altered their position. They accepted the elective method in the belief that their connections, prestige, and talents would enable them to carry the day in any electoral competition. One observer, who was sympathetic to the *Ottimati*, went so far as to say that the new system (election rather than lot) "had no other end than to give back the state to the nobility."[40] Thus there was still, in December 1494, some uncertainty regarding the probable effects of election compared to those of lot. It was this uncertainty that enabled the reform to go through: each camp believed the change would work to its favor. Initially, experience seemed to vindicate the expectations of the popular movement. In the popular enthusiasm for the Great Council, "new men" (*gente nuova*) and partisans of the popular movement were elected to high offices in the first elections. But after a while things changed. "The novelty gradually wore off," Rubinstein writes, "and the prestige and influence of the *Ottimati* came increasingly into their own again ... Thus we find once more a considerable proportion of the highest offices going to the families which had been used to hold them under the Medici and before."[41] At this point there was a change of opinion among the popular elements, which came to believe that lot was more in their favor. The *Ottimati*, for their part, in view of their success at getting themselves elected, became increasingly satisfied with the system of elections. Finally, during a third period (1495–7), pressure from the popular movement ensured that election was gradually abandoned in favor of lot.

The developments that occurred in the second period (the elections of 1494–5) obviously constitute the crucial turning point. This decisive episode seems to have stabilized once and for all the system of beliefs regarding the respective effects of election and lot. Thereafter, elections were systematically associated with *governo stretto* ("narrow" or aristocratic government) and lot with *governo largo* ("open" or popular government). These beliefs were to find their most brilliant and authoritative expression in the writings of Guic-

[40] The observer in question was Parenti. On this point, see Rubinstein, "I primi anni del Consiglio Maggiori di Firenze (1494–1499)," p. 324, and Rubinstein, "Politics and constitution in Florence," p. 179.

[41] *Ibid.*, p. 179.

ciardini. A member of one of the great *Ottimati* families and one of the most influential defenders of aristocratic republicanism, Guicciardini was the author of two speeches on the respective merits of election and lot.[42]

The first speech states the case for election (the *più fave* system), while the second advocates the combination of scrutiny (the *squittinio*) and lot. Although Guicciardini, following the rules of an established rhetorical *genre*, champions first one and then the other procedure, a number of discreet but unambiguous signs reveal that his own preference is for election. The advocate of elections argues that in the framing of a republic two ends must be kept in view: "the first one and the main one [is] that they are so constituted that every citizen must be equal before the law, and that in this no distinction should be made between rich and poor, between the powerful and the impotent, in such a way that their person, property and standing cannot be damaged." The other political end to be kept in view is that public offices should be arranged so as to be "as open as possible to everyone, such that the greatest possible number of citizens participate in them."[43] Equality before the law and equal access to public office were the core values of Florentine republicanism, and Guicciardini's speech formulates a common theme of republican thought. A century earlier, in his "Funeral Oration for Nanni degli Strozzi" Bruni had defined republican equality in the following terms: "This, then, is true liberty, this equality in a republic (*res publica*): not to have to fear violence or wrongdoing from anybody, and to enjoy equality among citizens before the law and in the participation in public office."[44] Guicciardini, however, ranks the two objectives. Whereas the first (equality before the law) must be realized without restrictions, Guicciardini goes on, the second (equal access to public office) should be sought only within certain limits, for the fate of the city must not be left in the hands of those who are merely adequate. This is where election

[42] "Del modo di eleggere gli uffici nel Consiglio Grande," in Guicciardini, *Dialogo e discorsi del Reggimento di Firenze*, pp. 175–85.

[43] *Ibid.*, pp. 175–6.

[44] Leonardo Bruni, "Funeral Oration for Nanni degli Strozzi" [1428], quoted by Hans Baron, *The Crisis of the Early Italian Renaissance* [1955] (Princeton, NJ: Princeton University Press, 1966), p. 419 (Baron reproduces the Latin text on p. 556).

is seen to be superior to lot. Election ensures that magistrates are "as select [*scelti*] as possible."[45] It has the further virtue of preventing just anybody from "raising himself to a prominent position [*si fare grande*]." In an elective system, eminence is conferred by others, not by oneself. And at the same time voters are able to distinguish the truly great from those who affect greatness.[46] Against such a system, Guicciardini concedes, the sole objection that might validly be advanced would be that "the number of those who obtain the magistracies grows smaller [*gli uffici vanno stretti*]." The answer to that objection consists in a question: If the people prefers to keep official functions within chosen circles, what is wrong with that? And if the objector persists, pointing out that, with an elective system, deserving citizens may remain excluded from public office while the people constantly re-elects the same persons, a different reply may be given: "Whether someone is meritorious is not a matter for a private individual to decide but for the people, who has a better judgement than anyone else, because it is prince and without passion. [The people] knows each of us better than we do ourselves and has no other end than to distribute things to those who are seen to merit them."[47] The notion that the people is capable of judging what is put to it, whether persons or decisions, but incapable of governing itself forms a recurring subject in Guicciardini's thought. Elections are thus preferable to lot since they select the best while still leaving it up to the people to discern who are the best. This value judgment aside, the way in which Guicciardini describes the respective properties of election and lot seems to reflect fairly precisely the common view of the two models that became established after 1495–7.

So having introduced lot to combat factionalism, the Florentines ended up rediscovering through experience the enigmatic idea of the Athenian democrats that lot is more democratic than election. Although Guicciardini did not explain, any more than had Aristotle, *why* elections tended to make public office the preserve of the elite,

[45] The Italian word *scelti* means both selected and select (as in the select few). Guicciardini is clearly playing on the double meaning here.

[46] Here again Guicciardini is using the many connotations of the expression *si fare grande* to take in not only those who proclaim themselves to be important but also those who act the part and those who affect importance.

[47] "Del modo di eleggere gli uffici nel Consiglio Grande," pp. 178–9.

he had no doubt that it was the case, and the Florentine republicans in general thought similarly. Florentine republicanism would in turn exercise a considerable influence on later developments of republican thought, particularly in England and the United States.[48] Thus there is reason to believe that the theorists and political actors of the seventeenth and eighteenth centuries, who were familiar with the Florentine republican experiment, knew that the belief in the aristocratic nature of elections was not unique to Greek political culture.

Venice

Venice, too, used lot, but in a quite different way.[49] The Venetians perfected an extraordinarily complicated and subtle system for appointing magistrates that became famous among political authors all over Europe.[50] Harrington was to recommend its adoption for his ideal republic of Oceana.[51] Lot intervened within the Venetian system only in the selection of members of the committees that nominated candidates to be considered by the Great Council (the *nominatori*). Those committees were appointed through a multi-stage procedure that involved a combination of lot and elections.[52] Lot was therefore not, as in Florence, used to select the magistrates themselves. The Venetian *nominatori* proposed several names for each office to be filled. The names proposed were then *immediately* put to vote in the Great Council.[53] For each magistracy, it was the

[48] This influence of Florentine political thought has been solidly documented by Hans Baron, Felix Gilbert and John Pocock.

[49] On Venice, see William J. Bouwsma, *Venice and the Defense of Republican Liberty: Renaissance Values in the Age of the Counter-Reformation* (Berkeley: University of California Press, 1968); Frederic Lane, *Venice: A Maritime Republic* (Baltimore, MD: Johns Hopkins University Press, 1973). The main reference work on the Venetian constitution is Giuseppe Maranini, *La Costituzione di Venezia*, 2 vols. (Florence: La Nuova Italia, 1974) [1st edn 1927].

[50] The Venetian appointment system is described as a whole in Maranini, *La Costituzione di Venezia*, Vol. II, pp. 106–24.

[51] J. Harrington, "The manner and use of the ballot," in J. G. A. Pocock (ed.), *The Political Works of James Harrington* (Cambridge: Cambridge University Press, 1977), pp. 361–7.

[52] The combination of lot and election in the appointment of *nominatori* concerned only the election of the doge. For the other magistracies, the committee of *nominatori* was simply appointed by lot. On the procedure specific to the election of the doge, see Maranini, *La Costituzione di Venezia*, Vol. I, pp. 187–90.

[53] This procedure was not, however, used for all magistracies. For some of the most important offices, the Senate (*Consiglio dei Pregadi*) both nominated and elected,

candidate who obtained the most votes that was appointed.[54] The system was thus based primarily on election, not only because the candidates were in the end elected by the Great Council, but also because the names of the candidates proposed were those who had collected *the most votes* in the preselection committee.

The use of lot for the selection of nominators made it all but impossible for cliques to influence the nominating process: the members of the Great Council simply did not know in advance whose job it would be to propose the candidates. As a further precaution, the vote was taken as soon as the candidates were announced, so there was no point in campaigning within the Council. "The selection of the nominating committee by lot and the immediacy of the nominating and the voting were *expressly* devised to prevent candidates from campaigning for office by appeals that would inflame factions."[55] Another feature of the system, one that intrigued observers, worked in the same direction: voting in the Great Council was by secret ballot. The Venetians went to quite extraordinary lengths to ensure that voting in the Great Council be completely secret: the balls used for voting were even wrapped in cloths to silence their fall when they were dropped into the urn. Here again, the object was to hinder action by organized groups: when voting, each member of the Council must be as isolated as possible from group and factional pressure.

Even if the essential aim of lot was to dissociate elections from the intrigues and divisive campaigns that usually went with them, some authors (notably Gasparo Contarini, the most famous theorist of the Venetian constitution) also credited it with a "popular" aspect in that it gave more people a role.[56] However, this egalitarian dimension meant only that all the members of the Great Council had an equal chance of being "important": an equal chance, that is, to be a nominator, but not to attain office.[57] The fact remains that in Venice too the use of lot was associated with the popular dimension of

with the Great Council playing no part. And for the magistrates elected by the Great Council, candidates were in some instances proposed from above by the *Signoria* or by the Senate. See Lane, *Venice*, pp. 258–9.

54 See Maranini, *La Costituzione di Venezia*, Vol. II, p. 118.

55 Lane, *Venice*, p. 110 (my emphasis).

56 Gasparo Contarini, *De Magistratibus et Republica Venetorum* (Paris, 1543).

57 Lane, *Venice*, p. 259.

government and with the notion of equal access, even if these related only to a limited and highly specialized function.

It did not escape the more perceptive observers, notably Harrington and Rousseau, that in reality the top magistracies usually remained in the hands of a few eminent families who formed a much smaller group than the Great Council. Rousseau, for example, in the chapter of his *Social Contract* devoted to elections, wrote: "It is a mistake to see the government of Venice as a true aristocracy. Even though the people has no part in the government there, the nobility themselves are of the people. A multitude of poor Barnabites [poor members of the Venetian nobility inhabiting the district of Saint Barnabas] never came close to holding any magistracy, and all they get out of their nobility is the empty title 'Excellence' and the right to attend the Great Council."[58] As Rousseau saw it, the Venetian nobility was the equivalent of the bourgeoisie that formed the General Council in Geneva, and Venice was "no more aristocratic" than his native republic. Both cities, in his eyes, constituted "mixed governments."[59]

Granted, the Venetian Great Council included only a small fraction of the population. Membership was hereditary, and members were the descendants of those who had been admitted at the time of the 1297 reform (the *Serrata* or "closing" of the Council). In the mid-sixteenth century, the Council comprised 2,500 members. The Great Council thus constituted the Venetian nobility. And these nobles only enjoyed political rights: they alone were the citizen body. It was not, however, the hereditary and closed character of the Venetian Great Council that most attracted the attention of Rousseau or Harrington, but the fact that only a small fraction of even that restricted group could become magistrates. This additional restriction occurred without any limitations being placed on the freedom of elections.

In a somewhat cryptic passage, Harrington, who was a careful observer and keen admirer of Venice, portrays this feature as the great enigma of the Venetian government:

58 J.-J. Rousseau, *On the Social Contract* [1762], Book IV, ch. 3; English translation by J. Masters, *On the Social Contract* (New York: St. Martin's Press), p. 112. For Harrington's comments on the same subject, see *The Prerogative of Popular Government*, in Pocock (ed.), *The Political Works of James Harrington*, p. 458.

59 J.-J. Rousseau, *Social Contract*, Book IV, 3.

> Riddle me, riddle me, what this is? The magistracies in Venice (except such as are rather of ornament than of power) all are annual, or at most biennial. No man whose term is expired can hold his magistracy longer, but by a new election. The elections are most of them made in the Great Council, and by the ballot, which is the most equal and impartial way of suffrage. And yet the greater magistracies are perpetually wheeled through a few hands. If I be worthy to give advice unto a man that would study the politics, let him understand Venice: he that understands Venice right shall go nearest to judge (notwithstanding the difference that is in every polity) right of any government in the world.[60]

Harrington did not give an explicit answer to the riddle, but the reader could discover it without difficulty: even when elections are free and fair, electors tend to vote repeatedly for the same prominent individuals or distinguished families. Harrington further suggested that the impact of this mysterious rule of politics extended well beyond Venice.

By limiting intrigue among the members of the Great Council, lot helped to maintain the remarkable cohesiveness of the Venetian nobility. And doubtless that cohesiveness was one of the causes of the astonishing stability of the republic. While the other Italian city-republics witnessed popular uprisings in which a section of the upper strata of the population allied itself with the lower strata, the powerful internal unity of the Venetian nobility enabled it effectively to exclude the other classes from power, thus avoiding disturbances that would have undermined the status quo.

Venice's stability, past victories over the Turks, wealth, and flourishing in the arts gave her an almost mythic status (*il mito di Venezia*).[61] The city also had a reputation as a paradigm of elective government. This must have suggested that somehow a link existed between republican success and the use of election, an impression that could only be reinforced by the case of Ancient Rome, another exceptionally long-lived and successful elective republic. Meanwhile, the experience of Florence kept alive the old Athenian idea that drawing lots was more egalitarian than voting. The fraction of the population enjoying political rights was almost as small in

[60] Harrington, *The Prerogative of Popular Government*, p. 486.
[61] On the "myth of Venice" as seen by observers, see Pocock, *The Machiavellian Moment*, pp. 100–2, 112–13, 284–5, 319–20, 324–5, 327–8.

Florence as it was in Venice, but the Florentine republicans perceived that, within such limits, lot could promote equality in the distribution of offices. It was the experiences of these ancient and contemporary republics that seventeenth- and eighteenth-century political thinkers had in mind when they thought about election and lot.

THE POLITICAL THEORY OF ELECTION AND LOT IN THE SEVENTEENTH AND EIGHTEENTH CENTURIES

Harrington

Harrington, that great champion of republicanism under Cromwell's protectorate, noted that Athens was brought to ruin because, with its Council (*boulē*) appointed by lot, the city lacked "a natural aristocracy." Athens was imperfect, Harrington wrote, "in regard that the senate, chosen at once by lot, not by suffrage, and changed every year not in part but the whole, consisted not of the natural aristocracy nor, sitting long enough to understand or be perfect in their office, had sufficient authority to withhold the people from that perpetual turbulence in the way was ruin in the end."[62] The same theory is repeated in *The Prerogative of Popular Government*: the fact that the Council (or Senate) was chosen by lot deprived Athens of "the natural and necessary use of an aristocracy."[63] There was no doubt in Harrington's mind that election, unlike lot, selected preexisting elites. When men are left free, he argued, they spontaneously recognize their betters.

> Twenty men, if they not be all idiots – perhaps if they be – can never come together, but there will be such a difference between them that about one third will be wiser, or at least less foolish, than all the rest ... These upon acquaintance, though it be but small, will be discovered and (as stags as have the largest heads) lead the herd; for while the six, discoursing and arguing one with another, show the eminence of their parts, the fourteen discover things that they never thought on, or are cleared in diverse truths which formerly perplexed them.[64]

[62] J. Harrington, *Oceana* [1656], in *The Political Works of James Harrington*, p. 184.
[63] Harrington, *The Prerogative of Popular Government*, p. 477.
[64] Harrington, *Oceana*, p. 172.

This comment occurs in the passage in the Preliminaries to *Oceana*, in which Harrington is discussing the election of his ideal Senate, but it is put forward as a general characteristic of human nature. Presumably, then, Harrington saw it as applying to any type of election. It is to permit the free recognition of this natural aristocracy that the author of *Oceana* advocates use of the election.

So Harrington rejected the use of lot in the selection of office-holders. Yet his name remains associated with praise for rotation in office. Pocock in particular stresses the importance of the idea of rotation in Harrington's thought, showing how it reflected his attachment to the cardinal principle of civic humanism: man achieves the full flowering of his nature through participation in politics.[65] Traditionally, however, the principle of rotation was associated with the practice of lot. How was Harrington able to advocate both election and rotation of office if it is true, as we noted above, that freedom to elect is also freedom to reelect, and that potentially, therefore, the elective principle and the ideal of rotation are in conflict? Here we need to take a close look at the institutional arrangements or "orders" in *Oceana*.[66]

At the parish level (the smallest political subdivision in Harrington's system), the "elders" elect a fifth of their number each year: "the persons so chosen are deputies of the parish for the space of one year from their election and no longer, nor may they be elected *two years together*."[67] Each elder, Harrington assumes, is thus a

[65] Notably in *The Machiavellian Moment*, and the detailed "Historical Introduction" to his edition of *The Political Works of James Harrington*, pp. 1–152. Pocock even sees rotation, as advocated by Harrington, as an institution transcending the distinction between representatives and represented. "The entire citizen body," he writes, "in its diverse capacity as horse and foot [the two property classes that Harrington proposes to establish], constantly 'poured itself' into government ... Indeed, if the whole people could be involved in rotation, parliament itself would be transcended and the freely choosing people would itself be the constantly successive government; even the 'prerogative tribe' [the popular assembly elected by the lower property class] or representative assembly would be renewed so frequently that all distinction between representative and represented would disappear" (Pocock, "Historical Introduction" in *The Political Works of James Harrington*, p. 69).

[66] Note that the idiomatic use of the term "orders" to refer to institutions is peculiar to Harrington. This neologism is one of countless manifestations of the debt Harrington owes to Machiavelli. The author of the *Discourses on the First Decade of Livy* uses the term *ordini* to denote institutions.

[67] Harrington, *Oceana*, "Fifth Order," p. 215 (my emphasis).

deputy of the parish every five years. At this level, therefore, rotation is complete, since all the elders will be deputies in turn.[68] However, the parish deputies are merely *electors* to the supreme assemblies of Oceana (the Senate and the Prerogative Tribe). The deputies of the different parishes meet in an assembly that Harrington calls the "galaxy" to elect knights (members of the Senate) and deputies (members of the Prerogative Tribe). At this level, the regulations are different: "A knight, a deputy of the galaxy having fulfilled his term of three years, shall not be re-elected unto the same or any other tribe, *till he has also filled his three years' vacation*."[69] In other words, there is nothing to prevent the members of the Senate and the deputies from being reelected a number of times; they are merely forbidden to succeed themselves. They must wait until the end of the next legislative term before becoming eligible again. Given the numbers of parish deputies and the size of the assemblies governing Oceana, rotation was thus not necessarily complete at this second level. Certain electors, delegated by the parishes, might never be elected to the Senate or to the Prerogative Tribe. There was no arrangement in Oceana to compare with the Athenian rule that prohibited a citizen from being a member of the *boulē* more than twice in his life.

Harrington makes this point even clearer in a passage of the *Prerogative of Popular Government* (which he wrote as a defense of *Oceana*). He draws a clear distinction between two types of rotation, that of electors and that of persons elected:

> This rotation [of electors to the national assemblies], being in itself annual, comes in regard of the body of the people to be quinquennial, or such as in the space of five years gives every man his turn in the power of election. But though every man be so capable of being an elector that he must have his turn, yet every man is not so capable of being elected in those magistracies that are sovereign or have the

[68] In reality, complete rotation of parish deputies does not necessarily follow from the above mentioned regulations. Under the stipulated rules, 60 percent of the voters could form a coalition to ensure that three subgroups of 20 percent each rotated in office. Harrington, then, seems to have miscalculated the effects of the provisions he recommended, for he explicitly claimed, in *The Prerogative of Popular Government*, that they secured a complete rotation of deputies at the parish level (see the passage cited below at note 70). I am indebted to Jon Elster for this observation.

[69] Harrington, *Oceana*, "Twelfth Order," p. 227 (my emphasis).

> leading role of the whole commonwealth, that it can be safe to lay a necessity that every man must take his turn in these also; but it is enough that every man, who in the judgement and conscience of his country is fit, may take his turn. Wherefore, upon the conscience of the electors (so constituted as hath been shown), it goes to determine who shall partake of sovereign magistracy or be, at the assembly of a tribe, elected into the Senate or Prerogative Tribe.[70]

The institutions of Oceana no doubt guarantee a certain rotation in the Senate and in the Prerogative Tribe, since their members cannot carry out two mandates consecutively. However, that rotation may be confined to the restricted circle of those whom "the judgement and conscience" of the electors have found worthy of such offices.

In another passage, Harrington writes that "a parliament man in Oceana may in twelve years have borne his magistracy six, notwithstanding the necessity of his vacations."[71] The passage from *The Prerogative of Popular Government* quoted above even shows that Harrington explicitly wished this to happen. Harrington's rotation is thus of two types: full or absolute rotation for electors (each citizen being an elector every five years), and limited rotation among those elected, that is, among the natural aristocracy, as recognized by the electors. "The Senate and the Prerogative Tribe – or representative assembly of the people – being each of the same constitution, amount to four thousand experienced leaders, *ready upon new election to resume their leading*."[72] There is thus no conflict in Harrington between the principle of rotation and the elective principle, since rotation applies in absolute terms only to the electors and not to those they elect.[73]

Montesquieu

Montesquieu, a reader of Machiavelli, Harrington, and probably also of Guicciardini, established a close link between lot and democracy on the one hand and election and aristocracy on the other. "Selection by lot [*le suffrage par le sort*]," he writes, "is in the nature of democracy, selection by choice [*le suffrage par choix*] is in

[70] Harrington, *The Prerogative of Popular Government*, p. 487.
[71] *Ibid.*, p. 493. [72] *Ibid.*, p. 494 (my emphasis).
[73] So we cannot agree with Pocock when he states that in Oceana the whole people "constantly 'pours itself'" into government.

the nature of aristocracy. The lot is a way of selecting [*une façon d'élire*] that offends no one; it leaves to each citizen a reasonable expectation of serving his country."[74] The first thing to note is the strength of the link established between selection procedures and types of republican governments.[75] The social scientist in search of the "necessary relationships deriving from the nature of things" posits as a constant, universal rule that democracy goes with lot and aristocracy with election.[76] The two methods are not described as appertaining to particular cultures or resulting from the "general spirit" of a given nation; they stem from the very nature of democracy and aristocracy. Furthermore, Montesquieu sees them as forming part of the "fundamental laws" of a republic (in the same way as the extension of the franchise, the secret or public character of voting, or even the allocation of legislative power).[77]

Admittedly, Montesquieu regards lot as "defective in isolation."[78] However, he goes on to say that its most obvious fault (the possibility of incompetent individuals being selected) can be corrected, which is what the greatest legislators set out to do. Montesquieu then proceeds to a brief analysis of the use of lot in Athens, crediting Solon with having hedged lot about with other arrangements that averted or reduced its undesirable aspect. "However, to correct lot," Montesquieu writes, "he [Solon] ruled that selection might be effected [i.e. lots drawn] only among those who presented themselves: that the person selected should be examined by judges, and that anyone might accuse him of being unworthy of selection: this implied both lot and choice. On completing his term, a magistrate had to undergo a further judgment as to the manner in which he had conducted himself. People without ability must have been very reluctant to put their names forward for selection by lot."[79] The historical perspicacity of Montesquieu's analysis is astonishing.

[74] Montesquieu, *De l'Esprit des Lois* [1748], Book II, ch. 2.
[75] The reader is reminded that, in Montesquieu's work, democracy and aristocracy are the two forms a republic can take. "Republican government," he writes, "is that in which the people as a body or only a section of the people has sovereign power" (*Spirit of the Laws*, Book II, ch. 1).
[76] Montesquieu, *Spirit of the Laws*, Book I, ch. 1.
[77] "Since in a republic the division of those who have the right to vote is a fundamental law, the way of arriving at that division is likewise a fundamental law" (*Spirit of the Laws*, Book II, ch. 2).
[78] *Spirit of the Laws*, Book II, ch. 2. [79] *Spirit of the Laws*, Book II, ch. 2.

Whereas later historians (notably, Fustel de Coulanges) were to wonder whether there was at Athens a preselection of the names submitted for selection by lot, Montesquieu already saw what the most recent historical research confirms, namely, that lots were drawn only from among the names of those who offered themselves. In addition, he grasped that the combination of the voluntary nature of candidacy for selection by lot with the prospect of sanctions must have led to a self-selection of candidates.

Two characteristics of lot make it necessary for a democracy. It neither humiliates nor brings disgrace upon those who are not selected for magistracies (it "offends no one"), since they know that fate might equally well have chosen them. And at the same time it obviates envy and jealousy toward those who are selected. In an aristocracy, Montesquieu remarks, "selection should not be by lot; one would have only its drawbacks. Indeed, in a government that has already established the most offensive distinctions [*les distinctions les plus affligeantes*], though a man might be chosen by lot, he would be no less detested for it; it is the noble that is envied, not the magistrate."[80] On the other hand, lot accords with the principle that democrats cherish above all others, namely equality, because it gives each citizen a "reasonable" chance of exercising a public function.[81]

Does this mean that for Montesquieu election does not give everyone a "reasonable" chance of holding office? He is not as explicit about the aristocratic nature of election as he is about the democratic properties of lot. He, too, fails to explain why elections are aristocratic. Yet a number of his observations regarding "selection by choice" suggest strongly that election does in fact elevate to magistracies certain kinds of people. Montesquieu's praise for "the natural ability of the people to discern merit" shows first that he, like Harrington, believed that the people will spontaneously choose the truly superior.[82] Furthermore, the examples cited in support of

[80] *Spirit of the Laws*, Book II, ch. 3.

[81] "In a democracy, love of the republic is love of democracy; love of democracy is love of equality" (*Spirit of the Laws*, Book V, ch. 3).

[82] "Should anyone doubt the natural ability of the people to discern merit, he need only look at the continuous succession of astonishing choices made by the Athenians and the Romans; no one, presumably, will attribute that to chance" (*Spirit of the Laws*, Book II, ch. 2).

this theory lead to the conclusion that Montesquieu did not draw a firm distinction between a natural aristocracy based on aptitude alone and the upper strata of society as defined by birth, wealth, and prestige.

> We know that in Rome, though the people had given itself the right to elevate plebeians to office, it could not bring itself to elect them; and although in Athens it was possible, by virtue of the law of Aristides, for magistrates to be drawn from any class, Xenophon tells us it never happened that the common people asked for themselves those magistracies that might affect its safety or its glory.[83]

"The people," Montesquieu had written in an earlier passage, "is admirable in its ability to choose those to whom it must entrust some part of its authority. It has only to decide on the basis of things it cannot ignore and of facts that are self-evident."[84] But let us look at the examples he cites to illustrate this proposition: the soldier who is elected general because he was successful on the battlefield; the assiduous and honest judge whom his fellow-citizens elevate to the praetorship; the citizen chosen as a councilor for his "munificence" or "riches." Here again, the examples of qualities that lead to a person's being elected range from purely personal merit (success in war), through a combination of moral virtue and social status (the zeal, honesty, and authority of the worthy judge), to something that may simply have been inherited (wealth). Montesquieu claims that

[83] *Spirit of the Laws*, Book II, ch. 2. This sentence should be compared with the following passage from the *Discourses on Livy*, at the end of which Machiavelli quotes the Roman historian: "The Roman people, as I have already said, came to look on the office of consul as a nuisance, and wished this office to be thrown open to plebeians, or, alternatively, that the authority of the consuls should be reduced. To prevent the authority of the consuls from being sullied by the adoption of either of these alternatives, the nobility suggested a middle course, and agreed to the appointment of four tribunes with consular power who might be either plebeian or nobles. With this the plebs were content, since it was tantamount to abolishing the consulate, and in the highest office of the state they had a share. An event then took place which is noteworthy. When it came to electing these tribunes, though they might have elected plebeians in all cases, all those the Roman people elected were nobles. On this Titus Livy remarks that 'the outcome of these assemblies shows that the attitude adopted in the struggle for liberty and honour was different from that adopted when the struggle was over and gave place to unbiased judgment.' " Machiavelli, *Discourses on the First Decade of Titus Livy*, Vol. I, 47, trans. L. J. Walker (London: Penguin, 1983), p. 225 (translation modified).

[84] Montesquieu, *Spirit of the Laws*, Book II, ch. 2.

the people elect the best, but the best may well be located among the upper classes.

Rousseau

Rousseau too, in the *Social Contract*, links lottery with democracy and election with aristocracy. Lot and election are presented as the two procedures that might be used to choose the "Government." In Rousseau's vocabulary, remember, the "Government" (also called the "Prince") stands for the executive branch. Legislation always remains in the hands of the people (the "Sovereign"). Consequently, no selection takes place at that level. But in selecting executive magistrates, a choice has to be made between one method of selection or the other. In a passage addressing this question, Rousseau starts by quoting Montesquieu and states his agreement with the idea that "selection by lot is of the nature of democracy." He adds, however, that the reasons why this is so are not those put forward by Montesquieu (prevention of jealousy, equal distribution of offices).

> Those are not reasons. If it is carefully noted that the selection of leaders [*l'élection des chefs*] is a function of Government, and not of Sovereignty, it will be seen why the drawing of lots is more in the nature of democracy, in which the administration is better to the extent that its acts are fewer. In every true democracy, the magistracy is not a benefit but a burdensome responsibility, which cannot fairly be placed on one particular individual rather than another. The law alone can impose this responsibility on the one to whom it falls by lot. For then, as the condition is equal for all, and the choice is not dependent on any human will, there is no particular application that alters the universality of the law.[85]

This complex reasoning becomes intelligible only if one realizes that the whole argument rests on a key notion that is not explicitly stated in the passage. For Rousseau, the allocation of magistracies ("the selection of leaders"), whether by lot or election, is a *particular* measure. Distribution of offices concerns individuals identified by name rather than all citizens. It cannot, therefore, be something

[85] Rousseau, *Social Contract*, Book IV, ch. 3. The quotation from Montesquieu referred to is the passage cited above, from *Spirit of the Laws*, Book II, ch. 2.

done by the people as Sovereign. Indeed, one of the key principles of the *Social Contract* is that the Sovereign can act only through the laws, that is, through general rules affecting all citizens equally. Particular measures are the province of Government. Consequently, if the people appoints magistrates, it can do so only in its capacity as Government ("the selection of leaders is a function of Government, and not of Sovereignty").[86] But two problems arise here.

First, according to Rousseau, democracy is defined precisely by the fact that in it the people are both the Sovereign (as in every legitimate political system) and the Government: in a democracy, the people make the laws and execute them. Rousseau further supposes that, even when the people wield executive power collectively, the different magistracies must be assigned to different citizens. Given this definition of democracy, it might seem that election ("selection by choice") is especially suitable for democratic regimes, since in such systems the people may also act *qua* Government. That is not, however, what Rousseau concludes; at this point, a different argument enters his reasoning. Popular exercise of both legislative and executive functions gives rise to a major danger: the decisions of the people *qua* Sovereign (the laws) may be infected by the particular views it must adopt when operating *qua* Government. "It is not good for him who makes the laws to execute them," Rousseau writes in his chapter on democracy, "nor for the body of the people to turn its attention away from general considerations to particular objects."[87] Men being less than perfect, this danger constitutes a major defect of democracy. This is one of the reasons why Rousseau concludes his chapter on democracy with the frequently cited words: "If there were a people of Gods, it would govern itself democratically. Such a perfect government is not suited to men." Gods would be able to separate in their minds the general views they must hold when they act as the Sovereign, from the particular ones they must adopt as executors of the laws, and avoid the adulteration of the former by the latter. But this is beyond human capacity. Therefore, a democratic government works best, when the people, who, above all, are the Sovereign, have the fewest possible occasions to make particular decisions as the Government.

[86] Rousseau, *Social Contract*, Book IV, ch. 3.

[87] *Ibid.*, Book III, ch. 4.

This is why Rousseau states in the passage cited above that in democracies "the administration is better to the extent that its acts are fewer."[88] Lot then solves this first problem. When the magistrates are selected by lot, the people have only one decision to make: they need only establish that magistrates will be selected by lot. Clearly, such a decision is a general rule or law, which they may therefore pass in their capacity as Sovereign. No further particular intervention is required of them as Government. If, on the other hand, the democracy is elective, the people must intervene twice: first, to pass the law instituting elections and how they shall be conducted, and then as the Government in order to elect the magistrates. It can be argued, along Rousseauian lines, that in this case their first decision would run the risk of being influenced by the prospect of the second one: they may, for example, frame the general electoral law with a view to making the election of certain individuals more or less likely.

But there is also a second problem. Even supposing that, in a democracy, the people manage not to let their decisions as Sovereign be affected by the particular views they need to adopt in order to govern, the fact remains that, when it comes to choosing magistrates, particular considerations of personality will influence their choice. When the members of the Government (in this case, all citizens) parcel out the offices of government among themselves, they assign each office to one individual rather than another (each magistracy has to be "placed on one particular individual rather than another"). Even if that distribution of magistracies is carried out in accordance with a general law, questions of personality will inevitably intervene between the law and the assignment of a function to a person, giving rise to the risk of partiality.[89] In this respect, lot presents a second advantage: it is a rule of distribution that does not require any further decision in order to be applied to particular cases. If the allocation of offices is done by lot, there is no

[88] *Social Contract*, Book IV, ch. 3.

[89] Rousseau finds it necessary to add that, in a "true" democracy, the exercise of a magistracy is essentially regarded as "a heavy burden" and that, in consequence, political justice consists in spreading costs, not benefits. However, this idea is not indispensable to the logic of his argument. The risk of injustice in any particular application of the rule of distribution of public offices would exist even if magistracies were regarded as benefits.

room for any particular will ("there is no particular application that alters the universality of the law"). Conditions are then rigorously the same for all members of the Government, since they are all equal before the law regulating the allocation of magistracies and since it is that law itself, so to speak, that assigns them particular offices.

So whether it is a question of limiting the number of occasions on which the people need to adopt particular views, or the risk of partiality in the distribution of offices, lot is the right selection method for democracy because it allocates magistracies without the intervention of any *particular will*. Furthermore, Rousseau adds, the condition of the citizens in a democracy is such that we can disregard the objection to the use of lot (selection of incompetent or unworthy citizens): "Selection by lot [*l'élection par sort*] would have few disadvantages in a true democracy where, all things being equal, both in mores and talents as well as in maxims and fortune, the choice would become almost indifferent."[90]

Elections, by contrast, are suited to aristocracy. "In an aristocracy the Prince chooses the Prince; the Government preserves itself, and it is there that voting is appropriate."[91] In an aristocracy, election presents no danger, since by definition the body that does the selecting (the "Prince" or "Government") is not the same as the one that makes the laws. When the Government chooses magistrates from among its number, it may resort to elections, which necessarily imply particular views and intentions. Here, there is no risk of those particular views affecting the creation of laws – especially the electoral law – since legislation is in any case in other hands. A footnote by Rousseau confirms this interpretation. In an aristocracy, he points out, it is vital that the rules governing elections remain in the hands of the Sovereign. "It is of great importance that *laws* [i.e. decisions by the Sovereign] should regulate the form of the election of magistrates, for if it is left to the will of the Prince [the government], it is impossible to avoid falling into a hereditary aristocracy."[92] If those who have the power to choose the magistrates also have the power to decide how the magistrates will be chosen, they will decide on the method most favorable to their interests – in this case, heredity. On the other hand, aristocracy is *the*

[90] *Social Contract*, Book IV, ch. 3.

[91] *Ibid.*, Book IV, ch. 3.

[92] *Ibid.*, Book III, ch. 5. (note by Rousseau; my emphasis).

system in which differences and distinctions among citizens can manifest themselves freely. And those differences can be utilized for political ends.

> In addition to the advantage of the distinction between the two powers [Sovereign and Government], it [aristocracy] has that of the choice of its members. For in popular government all citizens are born magistrates; but this type of government [aristocracy] limits them to a small number, and they become magistrates only by *election*, a means by which probity, enlightenment, experience, and all the other reasons for public preference and esteem are so many guarantees of being well governed.[93]

Because it is possible, in an aristocracy, to make political use of differences in talent and worth, elective aristocracy is the best form of government.[94]

While Montesquieu's discussion of lot in the *Spirit of the Laws* is remarkable for its historical insight, it is rigor of argument that stands out in Rousseau's *Social Contract*. Indeed, Rousseau himself regarded Montesquieu's account of the democratic properties of lot as poorly argued, though basically sound. His own account, however, for all its subtlety and impeccable logic, owed more to the idiosyncratic definitions and principles laid down in the *Social Contract* than to historical analysis. It might be pointed out that, given its complexity, the precise reasoning by which Rousseau linked lot to democracy probably exercised only the most limited influence on political actors. That may well be so, but the important points lie elsewhere.

The first thing to note is that, even as late as 1762, a thinker who undertook to lay down the "Principles of Political Right" (as the *Social Contract* was subtitled) would make a place for lot in his political theory. Both Montesquieu and Rousseau were fully aware that lot can select incompetents, which is what strikes us today, and explains why we do not even think of attributing public functions by lot. But both writers perceived that lot had *also* other properties or merits that at least made it an alternative worthy of serious

[93] *Social Contract*, Book III, ch. 5 (my emphasis; the term "election" here means election in the modern sense – what in other contexts Rousseau calls "selection by choice [*l'élection par choix*]."

[94] *Ibid.*, Book III, ch. 5.

consideration, and perhaps justified that one should seek to remedy the obvious defect with other institutions.

The other notable fact is that political writers of the caliber of Harrington, Montesquieu, and Rousseau should, each from his own standpoint and in his own manner, have advanced the same proposition, namely that election was aristocratic in nature, whereas lot is *par excellence* the democratic selection procedure. Not only had lot not disappeared from the theoretical horizon at the time representative government was invented, there was also a commonly accepted doctrine among intellectual authorities regarding the comparative properties of lot and election.

Scarcely one generation after the *Spirit of the Laws* and the *Social Contract*, however, the idea of attributing public functions by lot had vanished almost without trace. Never was it seriously considered during the American and French revolutions. At the same time that the founding fathers were declaring the equality of all citizens, they decided without the slightest hesitation to establish, on both sides of the Atlantic, the unqualified dominion of a method of selection long deemed to be aristocratic. Our close study of republican history and theory, then, reveals the sudden but silent disappearance of an old idea and a paradox that has hitherto gone unnoticed.

THE TRIUMPH OF ELECTION: CONSENTING TO POWER RATHER THAN HOLDING OFFICE

What is indeed astonishing, in the light of the republican tradition and the theorizing it had generated, is the total absence of debate in the early years of representative government about the use of lot in the allocation of power. The founders of representative systems did not try to find out what other institutions might be used in conjunction with lot in order to correct its clearly undesirable effects. A preliminary screening, along the lines of the Florentine *squittinio*, aiming to obviate the selection of notoriously unqualified individuals, was never even considered. One could also argue that by itself lot gives citizens no control over what magistrates do once in office. However, a procedure for the rendering of accounts, coupled with sanctions, would have provided some form of popular control over the magistrates' decisions; such a solution was

never discussed either. It is certainly not surprising that the founders of representative government did not consider selecting rulers endowed with full freedom of action by drawing lots from among the entire population. What is surprising is that the use of lot, even in combination with other institutions, did not receive any serious hearing at all.

Lot was not completely forgotten, however. We do find the occasional mention of it in the writings and speeches of certain political figures. In the debates that shaped the United States Constitution, for instance, James Wilson suggested having the President of the United States chosen by a college of electors, who were themselves drawn by lot from among the members of Congress. Wilson's proposal was explicitly based on the Venetian model and aimed to obviate intrigues in electing a president.[95] It provoked no discussion, however, and was set aside almost immediately. In France, a few revolutionaries (Siéyès before the revolution, Lanthenas in 1792) thought of combining lot with election. And in 1793 a member of the French Convention, Montgilbert, suggested replacing election by lot on the grounds that lot was more egalitarian.[96] But none of these suggestions met with any significant level of debate within the assemblies of the French revolution. In 1795 the Thermidorians decided that each month the seating arrangement within the representative assemblies (the *Cinq Cents* and the *Anciens*) would be determined by lot.[97] The measure was aimed at inhibiting the formation of blocs – in the most physical sense. Lot was still associated with preventing factionalism, but in an obviously minor way. In any case, the rule was never observed.

The revolutionaries invoked the authority of Harrington, Montesquieu, and Rousseau, and meditated on the history of earlier republics. But neither in England, nor America, nor France, did anyone, apparently, ever give serious thought to the possibility of

[95] See M. Farrand (ed.), *The Records of the Federal Convention of 1787* [1911], 4 vols. (New Haven, CT: Yale University Press, 1966), Vol. II, pp. 99–106. I owe this reference to Jon Elster, who has my thanks.

[96] The suggestions of Siéyès and Lanthenas, together with the pamphlet written by Montgilbert, are quoted by P. Guéniffey in his book *Le Nombre et la Raison. La révolution française et les élections* (Paris: Editions de l'Ecole des Hautes Etudes en Sciences Sociales, 1933), pp. 119–20.

[97] See Guéniffey, *Le Nombre et la Raison*, p. 486.

assigning any public function by lot.[98] It is noteworthy, for example, that John Adams, one of the founding fathers who was most widely read in history, never considered selection by lot as a possibility, not even for the purposes of rejecting it.[99] In the lengthy descriptive chapters of his *Defense of the Constitutions of Government of the United States of America* devoted to Athens and Florence, Adams briefly notes that those cities chose their magistrates by lot, but he does not reflect on the subject. When representative systems were being established, this method of choosing rulers was not within the range of conceivable possibilities. It simply did not occur to anyone. The last two centuries, at least up until the present day, would suggest that it had disappeared forever.

To explain this remarkable, albeit rarely noted, phenomenon, the idea that first springs to mind is that choosing rulers by lot had become "impracticable" in large modern states.[100] One can also argue that lot "presupposes" conditions of possibility that no longer obtained in the states in which representative government was invented. Patrice Guéniffey, for example, contends that lot can create a feeling of political obligation only within small communities in which all members know one another, which he argues is "an indispensable prerequisite for their accepting a decision in which they have played no part or only an indirect one."[101] Selection by lot also requires, the same author continues, that political functions

[98] This claim ought to be accompanied by a caveat. I certainly have not consulted all the historical works available, let alone all the original sources relating to the three great modern revolutions. Moreover, the political use of lot has so far received a very limited amount of scholarly attention; it cannot be ruled out, therefore, that future research may reveal additional cases of lot being discussed. Nonetheless it seems to me reasonable, given what I know at present, to maintain that selecting rulers by lot was not contemplated in any major political debate during the English, American, and French revolutions.

[99] This is true at least of his three main political works, namely *Thoughts on Government* [1776], *A Defense of the Constitutions of Government of the United States of America* [1787–8], and *Discourses on Davila* [1790]. See C. F. Adams (ed.), *The Life and Works of John Adams*, 10 vols. (Boston, MA: Little Brown, 1850–6), Vols. IV, V, and VI.

[100] It is odd that Carl Schmitt, one of the few modern authors to devote any attention to the selection of rulers by lot, should adopt this point of view. Schmitt comments that lot is the method that best guarantees an identity between rulers and ruled, but he immediately adds: "This method has become impracticable nowadays." C. Schmitt, *Verfassungslehre*, § 19 (Munich: Duncker & Humblot, 1928), p. 257.

[101] Guéniffey, *Le Nombre et la Raison*, p. 122.

be simple and not need any special competence. And finally, Guéniffey claims, for it to be possible to select rulers at random, an equality of circumstances and culture must "pre-exist among the members of the body politic, in order that the decision may fall on any one of them indifferently."[102]

Such comments contain grains of truth, but they are defective in that they obscure the element of contingency and choice that is invariably present in every historical development, and that certainly played a part in the triumph of election over lot. In the first place – and this point has been made before, but it bears repeating – lot was not totally impracticable. In some cases, such as England, the size of the electorate was not as large as some might think. It has been calculated, for example, that in 1754 the total electorate of England and Wales numbered 280,000 persons (out of a population of around 8 million).[103] There was nothing practical preventing the establishment of a multiple step procedure: lots could have been drawn in small districts, and a further drawing of lots could then have taken place among the names selected by lot at the first level. It is even more remarkable that no one thought of using lot for local purposes. Towns, or even counties of the seventeenth and eighteenth centuries could not have been much larger or more populous than ancient Attica or Renaissance Florence. Local political functions presumably did not present a high degree of complexity. Yet neither the American nor the French revolutionaries ever contemplated assigning local offices by lot. Apparently, not even in the towns of New England (which de Tocqueville was later to characterize as models of direct democracy) were municipal officials chosen by lot in the seventeenth and eighteenth centuries; they were always picked by election.[104] In those small towns of homogeneous popula-

[102] Guéniffey, *Le Nombre et La Raison*, p. 123.

[103] See J. Cannon, *Parliamentary Reform 1640–1832* (Cambridge: Cambridge University Press, 1973), p. 31.

[104] Here again, the assertion needs to be advanced with caution. I have not consulted all the historical studies dealing with the local government system in New England during the colonial and revolutionary periods. Moreover, instances of the use of lot may have escaped the attention of historians. It seems, however, that even if the practice existed here and there, it was certainly neither widespread nor salient. On this question, see J. T. Adams, *The Founding of New England* (Boston, MA: Little Brown, 1921, 1949), ch. 11; Carl Brindenbaugh, *Cities in Revolt. Urban Life in America 1743–1776* (New York: A. A. Knopf, 1955); E. M. Cook Jr, *The Fathers of the Towns: Leadership and Community Structure in Eighteenth-century*

tion and limited functions, where common affairs were discussed by all the inhabitants in annual town meetings, conditions today put forward as necessary for the use of lot must have been approximated. The difference between the city-republics of Renaissance Italy and the towns of colonial and revolutionary New England did not lie in external circumstances, but in beliefs concerning what gave a collective authority legitimacy.

It is certainly true that political actors in the seventeenth and eighteenth centuries did not regard selecting rulers by lot as a possibility. Electing them appeared as the only course, as indicated by the absence of any hesitation about which of the two methods to use. But this was not purely the deterministic outcome of external circumstances. Lot was deemed to be manifestly unsuitable, *given* the objectives that the actors sought to achieve and the dominant beliefs about political legitimacy. So whatever role circumstances may have played in the eclipse of lot and the triumph of election, we have to inquire into which beliefs and values have intervened to bring this about. In the absence of any explicit debate among the founders of representative government as to the relative virtues of the two procedures, our argument inevitably remains somewhat conjectural. The only approach possible is to compare the two methods with ideas whose force is otherwise attested in the political culture of the seventeenth and eighteenth centuries. This will allow us to determine what kinds of motivation could have led people to adopt election as the self-evident course.

There was indeed one notion in the light of which the respective merits of lot and election must have appeared widely different and unequal, namely, the principle that all legitimate authority stems from the consent of those over whom it is exercised – in other words, that individuals are obliged only by what they have consented to. The three modern revolutions were accomplished in the name of this principle. This fact is sufficiently established for there to be no need to rehearse the evidence at length here.[105] Let us look at a few illustrative examples. In the Putney debates (October 1647)

New England (Baltimore, MD: Johns Hopkins University Press, 1976). The analysis by de Tocqueville to which I refer may be found in *Democracy in America*, Vol. I, part 1, ch. 5.

[105] On the role of the idea of consent in Anglo-American political culture in the eighteenth century, see among others, J. P. Reid, *The Concept of Representation in*

between the radical and conservative wings of Cromwell's army, which constitute one of the most remarkable documents on the beliefs of the English revolutionaries, the Levellers' spokesman Rainsborough declared: "Every man that is to live under a government ought first by his own consent to put himself under that government; and I do think that the poorest man in England is not at all bound in a strict sense to that government that he hath not had a voice to put himself under." Replying to this, Ireton, the chief speaker of the more conservative group, did not dispute the principle of consent but argued that the right of consent belonged solely to those who have a "fixed permanent interest in this kingdom."[106] One hundred and thirty years later, the American Declaration of Independence opened with the words: "We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain inalienable Rights, that among these are Life, Liberty, and the pursuit of Happiness, – That to secure these rights, Governments are instituted among Men, deriving their just powers from the consent of the governed."[107] Finally, in France, a key figure in the early months of the revolution, Thouret, published at the beginning of August 1789 a draft declaration of rights that included the following article: "All citizens have the right to concur, individually or through their representatives, in the formation of the laws, and to submit only to those to which they have freely consented."[108]

This belief that consent constitutes the sole source of legitimate authority and forms the basis of political obligation was shared by all Natural Law theorists from Grotius to Rousseau, including Hobbes, Pufendorf, and Locke. This too has been sufficiently established, and we may confine ourselves to a single illustration. It is taken from Locke, the intellectual authority who enjoyed the

the Age of the American Revolution (Chicago: University of Chicago Press, 1989), esp. ch. 1, "The concept of consent."

106 "The Putney debates," in G. E. Aylmer (ed.), *The Levellers in the English Revolution* (Ithaca, NY: Cornell University Press, 1975), p. 100.

107 "Declaration of Independence" [4 July 1776], in P. B. Kurland and R. Lerner (eds.), *The Founders' Constitution*, 5 vols. (Chicago: University of Chicago Press, 1987), Vol. I, p. 9.

108 Thouret, "Projet de déclaration des droits de l'homme en société" [1789], in S. Rials (ed.), *La déclaration des droits de l'homme et du citoyen* (Paris: Hachette, 1988), p. 639.

greatest ascendancy in England, America, and France alike.[109] In his *Second Treatise of Government*, Locke wrote: "Men being, as has been said, by Nature, all free, equal, and independent, no one may be taken from this Estate and subjected to the Political Power of another but by his own *consent*." He further wrote: "And thus that, which begins and actually *constitutes any Political Society*, is nothing but the consent of any number of Freemen capable of a majority to unite and incorporate themselves into such a Society. And this is that and that only which did, or could give *beginning* to any *lawful Government* in the World."[110]

Once the source of power and the foundation of political obligation had been located in this way in the consent or will of the governed, lot and election appeared in a completely new light. However lot is interpreted, whatever its other properties, it cannot possibly be perceived as an expression of consent. One can establish, to be sure, a system in which the people consent to have their leaders designated by lot. Under such an arrangement, the power of those selected for office at a particular in time would be ultimately founded on the consent of the governed. But in this case, legitimation by consent would only be indirect: the legitimacy of any particular outcome would derive exclusively from the consent to the procedure of selection. In a system based on lot, even one in which the people have once agreed to use this method, the persons that happen to be selected are not put in power through the will of those over whom they will exercise their authority; they are not put in power by anyone. Under an elective system, by contrast, the consent of the people is constantly reiterated. Not only do the people agree to the selection method – when they decide to use elections – but they also consent to each particular outcome – when they elect. If the goal is to found power and political obligation on consent, then obviously elections are a much safer method than lot. They select the persons who shall hold office (just as lot would), but at the same time they legitimize their power and create in voters a feeling of

109 For an excellent presentation of the ideas of the Natural Law School, see R. Derathé, *J.-J. Rousseau et la science politique de son temps* [1950] (Paris: Vrin, 1970), *passim*, esp. pp. 33 ff., 180 ff.

110 J. Locke, *The Second Treatise of Government*, ch. VIII, §§ 95, 99, in Locke, *Two Treatises of Government*, ed. P. Laslett (Cambridge: Cambridge University Press, 1960), pp. 330, 333 (original emphasis).

obligation and commitment towards those whom they have appointed. There is every reason to believe that it is this view of the foundation of political legitimacy and obligation that led to the eclipse of lot and the triumph of election.

The link between election and consent was not in fact a complete novelty at the time representative government was established. Nor was it the invention of modern natural law theorists to hold that what obligates all must have been consented to by all. The expression of consent through election had already proved itself as an effective way of generating a sense of obligation among the population. The convening of elected representatives for the purpose of fostering this sense, particularly in regard to taxation, had been used successfully for several centuries. The "Assemblies of Estates" and the "Estates-General" of the Middle Ages (and the modern period) were based on this principle. Some historians stress the differences between the medieval "Assemblies of Estates" and the representative assemblies that became the locus of power in the wake of the three great revolutions. The differences are indeed substantial. However, they should not obscure the elements of continuity. The fact is that the English Parliament after the revolutions of 1641 and 1688 was also the descendant of the Parliament of the "ancient constitution" – and was seen as such. The American colonies, too, had experience of elected representative assemblies, and the slogan of the 1776 revolution ("no taxation without representation") testifies to the prevalence of the ancient belief that the convening of elected representatives was the only legitimate way to impose taxation. In France, the break may have been more abrupt, nonetheless it was a financial crisis that led the monarchy to convene the Estates-General, reviving an institution which was known to be effective at creating a sense of obligation. Moreover, there are good grounds for thinking that the electoral techniques employed by representative governments had their origins in medieval elections, both those of "Assemblies of Estates" and those practiced by the Church (rather than in the elections of the Roman republic, for example).[111]

[111] See especially Léo Moulin, "Les origines religieuses des techniques électorales modernes et délibératives modernes," in *Revue Internationale d'Histoire Politique et Constitutionelle*, April–June 1953, pp. 143–8; G. de Lagarde, *La Naissance de l'esprit laïque à la fin du Moyen Age* (Leuven/Louvain: E. Nauvelaerts, 1956); L. Moulin, "'Sanior et Major pars', Étude sur l'évolution des techniques électorales et délibératives dans les ordres religieux du VI^{ème} au XIII^{ème} siècles," in *Revue Historique de Droit Français et Etranger*, 3–4, 1958, pp. 368, 397, 491–529; Arthur P. Monahan, *Consent, Coercion and Limit, the Medieval Origins of Parliamentary Democracy* (Kingston, Ontario: McGill-Queens University Press, 1987); Brian M. Downing, *The Military Revolution and Political Change. Origins of Democracy and Autocracy in Early Modern Europe* (Princeton, NJ: Princeton University Press, 1992).

In the Middle Ages, the use of election went hand in hand with the invocation of a principle that, according to all evidence, crucially affected the history of Western institutions. This was the principle of Roman origin: *Quod omnes tangit, ab omnibus tractari et approbari debet* ("What touches all should be considered and approved by all"). Following the reemergence of Roman law in the twelfth century, both civil and Canon lawyers spread this principle, though reinterpreting it as applying to public matters, whereas in Rome it belonged to private law.[112] The principle Q.O.T. was invoked by Edward I in his writ summoning the English Parliament in 1295, but recent research has shown that by the late thirteenth century the phrase already had wide currency. The expression was also used by the French king Philip IV when he summoned the Estates-General in 1302, and by Emperor Frederick II when he invited the cities of Tuscany to send delegates (*nuntii*) with full powers.[113] Popes Honorius III and Innocent III likewise made quite frequent use of it. One should note that the authorities who thus called for the election of representatives usually insisted that they be invested with full powers (*plenipotentiarii*) – that is to say, that the electors should consider themselves bound by the decisions of the elected, whatever those decisions may be. The involvement of the will and consent of

[112] The formulation of this principle (usually known as "Q.O.T." for short), found in Justinian's *Codex* of 531 (*Cod.*, 5, 59, 5, 2), became the source for medieval commentators, such as Gratian, who mentions it in the *Decretum* (*circa* 1140; *Decretum*, 63, post c.25). On the original meaning of "Q.O.T.," see G. Post, "A Roman legal theory of consent, *quod omnes tangit* in medieval representation," in *Wisconsin Law Review*, Jan. 1950, pp. 66–78; Y. Congar, "Quod omnes tangit, ab omnibus tractari et approbari debet" [1958], in Y. Congar, *Droit ancien et structures ecclésiales*, (London: Variorum, 1982), pp. 210–59. On other developments of this legal principle, see A. Marongiu, "Q.O.T., principe fondamental de la démocratie et du consentement au XIV^{ème} siècle," in *Album Helen Maud Cam*, 2 vols. (Leuven/Louvain: Presses Universitaires de Louvain, 1961), Vol. II, pp. 101–15; G. Post, "A Romano-canonical maxim, 'Quod omnes tangit' in Bracton and early parliaments," in G. Post, *Studies in Medieval Legal Thought* (Princeton,NJ: Princeton University Press, 1964), pp. 163–238.

[113] See Monahan, *Consent, Coercion and Limit*, pp. 100 ff.

the governed in the selection of delegates gave to the resolutions of the representative assemblies a binding force that the decisions of men selected by lot would not have possessed. Once the delegates had given their consent to a particular measure or tax, the king, pope, or emperor could then turn to the people and say: "You consented to have representatives speak on your behalf; you must now obey what they have approved." There was in election something like a promise of obedience.

Invoking the Q.O.T. principle did not imply that the consent of the governed was deemed the sole or principal source of legitimacy – a basic difference from modern representative assemblies. Rather it meant that a wish from "above" had to meet with approval from "below" in order to become a fully legitimate directive that carried obligation.[114] Nor did the principle entail any notion of choice among candidates by the people or proposals by the assembly. It was rather that the people were being asked to give their seal of approval to what the authorities (civil or ecclesiastical) had proposed. Often that approval took the form of a mere "acclamation."[115] But even in this form, the principle implied, at least in theory, that approval could be withheld. Repeated use of the Q.O.T. formula undoubtedly helped to propagate and establish the belief that the consent of the governed was a source of political legitimacy and obligation.

At this point, we should open a brief parenthesis. It has been claimed on occasion that the Church took the lead in bringing the practice of lot to an end by banning its use in the selection of bishops and abbots at a time when the procedure was still current in the Italian city-republics.[116] It is true that Honorius III did, by a decretal promulgated in 1223 (*Ecclesia Vestra*, addressed to the chapter of Lucca), prohibit the use of lot in ecclesiastical

[114] On the combination of the "ascending" and "descending" conceptions of authority in medieval thought and practice, the basic works remain those of Walter Ullmann; see in particular his *Principles of Government and Politics in the Middle Ages* (London: Methuen, 1961).

[115] On the essentially acclamatory nature of elections of representatives in pre-revolutionary England, see M. Kishlansky, *Parliamentary Selection: Social and Political Choice in Early Modern England* (Cambridge: Cambridge University Press, 1986), esp. ch. 2.

[116] Moulin, "Les origines religieuses des techniques électorales modernes et délibératives modernes," p. 114.

appointments.[117] Previously lot had occasionally been employed in filling episcopal positions.[118] But it was understood to manifest God's will. And it was the use of lot as an appeal to divine providence that *Ecclesia Vestra* banned. The decretal can be found in the *Liber Extra*, under the heading *De sortilegiis* (Of Sortileges) (Tit. XXI) among prohibitions of other divinatory practices deemed superstitious. So, the Church voiced no objections to the purely secular use of lot, that is, where it was not given supernatural significance. This interpretation of the Church's prohibition finds confirmation in the *Summa Theologiae*.[119] In a detailed argument (that merits no elaboration here), Thomas Aquinas distinguishes a number of possible uses of lot: distributive lot (*sors divisoria*), consultative lot (*sors consultatoria*), and divinatory lot (*sors divinatoria*). The important point is that, according to Aquinas, the distributive use of lot to assign "possessions, honours, or dignities" does not constitute a sin. If the outcome of lot is seen as no more than the product of chance (*fortuna*), there is no harm in resorting to it "except that of possibly acting in vain [*nisi forte vitium vanitatis*]." So there is no doubt that the Church was not opposed to the use of lot for assigning offices, provided that no one accorded any religious significance to the procedure. This explains, in fact, why the highly Catholic Italian republics continued to use lot after *Ecclesia Vestra* without the practice giving rise to any controversy

[117] *Corpus Juris Canonici*, E. Friedberg edition, 2 vols. (Tauschnitz, 1879–81), Vol. II, p. 823 (*Liber Extra*, Tit. XXI, cap. III). I owe this reference to Mr. Steve Horwitz of California, an expert in canon law and antique books, with whom I got in touch via electronic mail on the Internet and whom I should like to thank here. Léo Moulin (in the article referred to in note 116 above) mentions the existence of the decretal but without giving either a precise reference or an analysis of its content. My questions to a number of experts on canon law as well my own research in the *Corpus Juris Canonici* had proved fruitless. Paul Bullen, whom I should also like to thank, then suggested that I put the problem to a group of experts on medieval and canon law who subscribed to the Internet. In this way I was eventually able to consult the text of the decretal, the precise content of which is important, as we shall see. Possibly I should also pay homage to the technology which has today extended the republic of letters to cover the entire planet!

[118] See Jean Gaudemet, "La participation de la communauté au choix de ses pasteurs dans l'Eglise latine: esquisse historique," in J. Gaudemet, *La société ecclésiastique dans l'Occident médiéval* (London: Variorum, 1980), ch. 8. Gaudemet indicates that in 599 the Council of Barcelona decided, "among the two or three candidates that the clergy and the people have chosen by agreement," the bishop might be appointed by lot (*La société ecclésiastique*, pp. 319–20).

[119] Thomas Aquinas, *Summa Theologiae*, IIa IIae, qu. 95, art. 8, I. Again, my thanks to Paul Bullen for drawing this passage to my attention.

with the ecclesiastical authorities. If the medieval Church contributed to the decline in the political use of lot, it was purely in so far as it propagated the principle of consent, not because it prohibited the assignment of "dignities" by lot.

The seventeenth- and eighteenth-century authors familiar with the history of republics realized that the appointment of representatives by election owed more to feudal than to republican tradition. On this point too, Harrington, Montesquieu, and Rousseau were in agreement. Commenting on the use of lot to choose the prerogative century in Rome, Harrington wrote: "But the Gothic prudence, in the policy of the third state [stage of history], runs altogether upon the collection of a representative by the *suffrage* of the people [election]."[120] Harrington, for all his republicanism, preferred election to lot (as we have seen). Thus, election was probably the only principle of "Gothic prudence" to be retained in a scheme wholly oriented towards reviving the principles of "Ancient prudence." Montesquieu's famous phrase about the origins of the English government points in the same direction: "This marvellous system was found in the woods" – the woods of *Germania*, that is, which had also given birth to "Gothic" customs and the feudal system.[121] Finally, it would be wrong to read only invective in the well-known passage of the *Social Contract*: "The idea of representatives is modern: it comes to us from feudal government, from that iniquitous and absurd government in which the human race is degraded and the name of man dishonoured. In the old republics, and even in monarchies, the people never had representatives."[122] The expression, the "name of man," refers, with impressive if implicit historical accuracy, to the feudal oath by which the vassal made himself his lord's "man" by pledging allegiance to him. For Rousseau, it was a

[120] Harrington, *The Prerogative of Popular Government*, p. 477 (original emphasis).

[121] Montesquieu, *Spirit of the Laws*, Book XI, ch. 6. A passage in the *Pensées* confirms that Montesquieu saw a close link between the laws of England and the Gothic system: "Regarding what Mr. Yorke told me about a foreigner being unable to understand a single word in Lord Cook and in Littleton, I told him I had observed that, as regards the feudal laws and the ancient laws of England, it would not be very hard for me to understand them, any more than those of all other nations, because since all the laws of Europe are Gothic they all had the same origin and were of the same nature" (Pensée 1645, in *Oeuvres complètes*, 3 vols. (Paris: Nagel, 1950), Vol. II, p. 481).

[122] *Social Contract*, Book III, ch. 15.

dishonor to the human race to associate its name to an act of subordination.

At the time when representative government was established, medieval tradition and modern natural right theories converged to make the consent and will of the governed the sole source of political legitimacy and obligation. In such a situation, election suggested itself as the obvious method for conferring power. At the same time, however, the question of legitimacy very much obscured (or at least relegated to the background) the problem of distributive justice in the allocation of political functions. Henceforth, it no longer mattered whether public offices were distributed equally among citizens. It was much more important that those who held office did so through the consent of the rest. It was the manner in which power was distributed that made the outcome acceptable, whatever it was. To be sure, the concern for distributive justice in the allocation of offices had not entirely disappeared. But election as a method for conferring power was seen as substantially fairer and more egalitarian than the principle that had been in place, namely, that of heredity. Compared to the gap that separated election and heredity, the difference between the distributive effects of the two non-hereditary procedures (lot and election) appeared negligible. Since in other respects the notion of legitimacy gave clear preference to one of the two non-hereditary methods, it is understandable that even the most egalitarian revolutionaries never seriously contemplated introducing lot. The difference between the respective distributive effects of lot and election was something that educated leaders, whether conservative or radical, were certainly aware of. Yet it failed to arouse controversy because conservatives were (secretly or not so secretly) quite happy about it, and radicals were too attached to the principle of consent to defend lot.

Admittedly, external circumstances also helped relegate to the background the problem of distributive justice in the allocation of offices. In the large states of the seventeenth and eighteenth centuries, the sheer ratio between the number of offices to be filled and the size of the citizen body effectively meant that, whatever the method of selection, any given citizen had only a minute chance of attaining those positions. The fact remains, however, that if Aristotle, Guicciardini, or Montesquieu were right, lot would have

distributed equally that minute probability, whereas election did so unequally. One can also argue that, this probability being so low, the distribution of offices became a less pressing and politically urgent problem, since the stakes were smaller than in fifth-century Athens or fifteenth-century Florence, even assuming that the value placed on office-holding was the same in each case. It is certainly true that from the standpoint of an individual eighteenth-century citizen, it did not much matter whether his odds were slightly higher or slightly lower than those of his fellow-citizens (since in any case they were quite small). It does not follow, however, that the difference in the distribution of offices achieved by one or the other of the two procedures was inconsequential. It is not, for example, a matter of indifference that a governing assembly contains more lawyers than farmers, even if it is a matter of relative indifference to each individual farmer that a lawyer should have more chance than himself of entering assembly.

Whatever the respective roles that circumstance and belief may have played, when representative government was established, concern for equality in the allocation of offices had been relegated to the background. Here lies the solution to the paradox, noted earlier, of a method known for distributing offices less equally than lot (election) prevailing without debates or qualifications, at the moment political equality among citizens was being declared. By the time representative government arose, the kind of political equality that was at center stage was the equal right to consent to power, and not – or much less so – an equal chance to hold office. This means that a new conception of citizenship had emerged: citizens were now viewed primarily as the source of political legitimacy, rather than as persons who might desire to hold office themselves.

Noting this change opens up a new perspective on the nature of representative government. Two hundred years after modern political representation was established, viewing citizens as the source of power and as the assigners of office appears today as the natural way of envisioning citizenship. Not only do we share the viewpoint that prevailed at the end of the eighteenth century, but we are no longer aware that we are thereby giving precedence to a particular conception of citizenship over another. We have almost completely

forgotten that, even under conditions where it is not possible for everyone to participate in government, citizens can also be seen as desirous of reaching office. We do not even think, therefore, of inquiring into how offices, seen as scarce goods, are distributed among citizens by representative institutions. The history of the triumph of election suggests that by doing so we would deepen our comprehension of representative government.

3

The principle of distinction

As we have seen, the founders of representative government were not concerned that elections might result in an inegalitarian distribution of offices; their attention was concentrated on the equal right to consent that this method made possible. Another inegalitarian characteristic of representative government, however, was deliberately introduced after extensive discussion, namely that the representatives be socially superior to those who elect them. Elected representatives, it was firmly believed, should rank higher than most of their constituents in wealth, talent, and virtue. The fraction of the population constituting the electorate varied from country to country at the time representative government was established. For example, in England only the upper strata of the society could vote, whereas in the United States and in revolutionary France the right to vote extended to more popular elements. But whatever the threshold was, measures were taken to ensure that representatives were well above it. What counted was not only the social status of representatives defined in absolute terms, but also (and possibly more importantly) their status relative to that of their electors. Representative government was instituted in full awareness that elected representatives would and should be distinguished citizens, socially different from those who elected them. We shall call this the "principle of distinction."

The non-democratic nature of representative government in its early days is usually seen to lie in the restricted character of the electoral franchise. In post-civil war England the right to vote was indeed reserved to a small fraction of the population. The French

Constituent Assembly also drew a distinction between "active" and "passive" citizens, with only the former being entitled to vote. In America, the Constitution left it to the states to make these decisions: it stipulated that the qualifications for voting in federal elections would be the same as those applying in each state for elections to the lower house. Since in 1787 most states had established a property or tax qualification for the electors, the decision of the Philadelphia Convention entailed in practice a somewhat restricted franchise for federal elections.[1]

The limits on the right of suffrage in early representative government are well known, and the attention of historians has usually been concentrated on the gradual disappearance of those limits during the nineteenth and twentieth centuries. What has been less noticed and studied, however, is that, independent from these restrictions, there existed also a number of provisions, arrangements, and circumstances which ensured that the elected would be of higher social standing than the electorate. This was achieved by different means in England, France, and America. One can generally say that superior social standing was guaranteed in England by a mix of legal provisions, cultural norms, and practical factors, and in France by purely legal provisions. The American case is more complicated, but also, as we shall see, more revealing.

ENGLAND

It is a commonplace to say that in seventeenth- and eighteenth-century Britain membership in the House of Commons was reserved to a small social circle. Since the beginning of the twentieth century, so many studies have documented this fact that it is unnecessary to underline it yet again.[2] The first revolution to some extent opened the political game, in the sense that, during the revolutionary period contested elections occurred more frequently than before. A recent study has shown that prior to the civil war, parliamentary selection was part of a global and integrated pattern of authority. Returning a

1 See J. R. Pole, *Political Representation in England and the Origins of the American Republic* (Berkeley: University of California Press, 1966), p. 365.

2 For a general view of this field, with bibliographical references, see J. Cannon, *Parliamentary Reform 1640–1832* (Cambridge: Cambridge University Press, 1973).

Member was a way of honoring the "natural leader" of the local community. Elections were seldom contested. It was seen as an affront to the man or to the family of the man who customarily held the seat for another person to compete for that honor. Electoral contests were then feared, and avoided as much as possible. Elections were usually unanimous, and votes rarely counted.[3] The civil war deepened religious and political divisions among the elites, and thus made electoral contests more frequent. Elections then assumed the form of a choice, but one between divided and competing elites. Even during the revolutionary period, the social component of selection, although in retreat, never disappeared.[4] Furthermore, after the years of turmoil, the late seventeenth century even witnessed "a consolidation of gentry and aristocracy." "While the social groups that comprised the electorate expanded," Mark Kishlansky writes, "the social groups that comprised the elected contracted."[5] This was even more true after the mid-eighteenth century, when the number of contested elections markedly decreased.[6]

Two key factors account for this aristocratic or oligarchic nature of representation in England. First, there was a cultural climate in which social standing and prestige were exceptionally influential. Respect for social hierarchy profoundly imbued people's thinking: voters tended to take their cue from the most prominent local figures and considered it a matter of course that these prominent figures alone could be elected to the House of Commons. This distinctive feature of British political culture later came to be termed "deference." The term was coined by Walter Bagehot in the late nineteenth century, but the phenomenon to which it referred had long been typical of English social and political life.[7] The second factor was the exorbitant cost of electoral campaigning, which increased steadily following the civil war and throughout the eighteenth century. Members themselves complained in their private correspondence and in parliamentary debates that elections were

[3] See M. Kishlansky, *Parliamentary Selection: Social and Political Choice in Early Modern England* (Cambridge: Cambridge University Press, 1986), esp. chs. 1–4.
[4] *Ibid.*, pp. 122–3.
[5] *Ibid.*, p. 229.
[6] Cannon, *Parliamentary Reform*, pp. 33–40.
[7] On the role of "deference" in nineteenth-century elections, see David C. Moore, *The Politics of Deference. A Study of the Mid-nineteenth Century English Political System* (New York: Barnes & Noble, 1976).

too expensive. Historical studies confirm beyond any doubt that electioneering was a rich man's pursuit. This fact was largely due to peculiarities of the English elections. Polling stations were few, which often required voters to travel great distances. And it was customary for each candidate to transport favorable voters to the polling place and to entertain them during their travel and stay. The combination of deference and electoral expenses thus "spontaneously" restricted access to the House of Commons, despite the absence of explicit legal provisions to that effect.

In 1710, a further factor came into play. A formal property qualification was then established for MPs, that is, a property qualification different from and higher than that of the electors. It was enacted (9 Anne, c.5) that knights of the shire must possess landed property worth £600 per annum, and burgesses £300 per annum.[8] The measure was passed by a Tory ministry, and was intended to favor the "landed interest." But the "moneyed interest" (manufacturers, merchants, and financiers) could still buy land, however, and in fact did so. The Whigs, after their victory in 1715, made no attempt to repeal the Act.[9] Indeed, they had long been thinking themselves of introducing a specific property qualification for the elected. In 1679, Shaftesbury, the Whig leader who played a prominent role during the Exclusion crisis, had introduced a bill to reform elections. The bill contained various provisions which aimed at securing the independence of the Parliament from the Crown. The most famous of these provisions affected the franchise: Shaftesbury proposed that in the shires only householders and inhabitants receiving £200 in fee could vote (instead of the forty-shilling franchise, the value of which had been dramatically eroded since its establishment in 1429). The objective of this provision was to reserve voting rights to men who had enough "substance" to be independent from the Crown, and therefore less susceptible to its corruptive endeavors.[10] But the bill also contained a provision establishing a

[8] By "worth" is meant the amount of rent a property was capable of generating, according to assessments by the fiscal authorities.
[9] See Cannon, *Parliamentary Reform*, p. 36; Pole, *Political Representation*, pp. 83, 397. Pole remarks that if the measure was passed and kept, it might have been because the expected "natural" differences between electors and elected were no longer so obvious.
[10] On the bill of 1679, see J. R. Jones, *The First Whigs, The Politics of the Exclusion Crisis 1678–1683* (London: Oxford University Press, 1961), pp. 52–5.

specific property (and age) qualification for the representatives, different from that of the electors. In an unpublished tract (found among his papers after his death), Shaftesbury wrote in defense of his bill:

> As the persons electing ought to be men of substance, so in a *proportioned degree* ought also the Members elected. It is not safe to make over the estates of the people in trust, to men who have none of their own, lest their domestic indigencies, in conjunction with a foreign temptation [the king and the court], should warp them to a contrary interest, which in former Parliaments we have sometimes felt to our sorrow.[11]

Shaftesbury proposed that representatives be chosen only from among the members of the gentry "who are each worth in land and moveables at least £10,000, all debts paid" (and of forty years of age).[12]

Even in England, then, where the franchise was already severely limited, additional restrictions applied to elected representatives. Whigs and Tories agreed, albeit for different reasons, that the elected should occupy a higher social rank than the electors.

FRANCE

In France, the Constituent Assembly established early on a markedly wider franchise. By today's standards, of course, it appears restricted. To qualify as an "active citizen" one had to pay the equivalent of three days' wages in direct taxes. In addition, women, servants, the very poor, those with no fixed abode, and monks had no vote, on the grounds that their position made them too dependent on others for them to have a political will of their own. The exclusion of these "passive citizens" from the franchise attracted a

[11] Antony Ashley Cooper, First Earl of Shaftesbury, "Some observations concerning the regulating of elections for Parliament" (probably 1679), in J. Somers (ed.), *A Collection of Scarce and Valuable Tracts*, 1748, First coll., Vol. I, p. 69. My emphasis.

[12] Shaftesbury, "Some observations concerning the regulating of elections for Parliament," p. 71. The sum of £10,000 seems enormous and almost implausible. This is, however, what I found in the copy of the 1748 edition which I have seen, but it could be a misprint (£1,000 would appear more plausible). I have been unable as yet to further check this point. In any case, the exact amount is not crucial to my argument. The essential point is that Shaftesbury proposes a higher property qualification for the elected than for the electors, on which the author is perfectly clear.

great deal of attention from nineteenth- and early twentieth-century historians. It was certainly not without importance, for it implied that in the eyes of the Constituents, political rights could legitimately be dissociated from civil rights, with the latter only being enjoyed indistinctly by all citizens. Recent studies show, however, that the franchise established by the Constituent Assembly was actually quite large given the culture of the time (which regarded women as part of a marriage unit), and in comparison with contemporary practice elsewhere (notably in England), or later practice in France under the restored monarchy (1815–48). It has been calculated that the French electorate under the qualifications set in 1789 numbered approximately 4.4 million.[13] The decrees of August 1792 establishing "universal" suffrage certainly enlarged the electorate, but this was primarily the result of lowering the voting age from 25 to 21. (Women, servants, and those with no permanent place of residence remained excluded.)[14] Although the proclamation of universal manhood suffrage was perceived as historic, the actual change was limited. After 1794, the Thermidorians, without reviving the politically unfortunate terms "active" and "passive" citizens, returned to an electoral system not unlike that of 1789, while still making the right to vote conditional on the ability to read and write. (The argument being that secret voting required the ability to cast written ballots.) The electorate following Thermidor was still large, probably numbering 5.5 million citizens.[15]

In France, then, the debate over how popular representative government should be did not center on who could vote. Rather, it centered on who could be voted for. In 1789 the Constituent Assembly decreed that only those who could meet the two conditions of owning land and paying taxes of at least one *marc d'argent* (the equivalent of 500 days' wages) could be elected to the National Assembly. It was this *marc d'argent* decree that constituted the focus of controversy and opposition. Whereas the three days' labor tax qualification for the electors disfranchised only a relatively small number of citizens, the *marc d'argent* qualification for deputies seems

[13] P. Guéniffey, *Le Nombre et la Raison. La révolution française et les élections* (Paris: Editions de l'Ecole des Hautes Etudes en Sciences Sociales, 1933), pp. 44–5. This figure represented something like 15.7 percent of the total population and 61.5 per cent of the population of adult males (Guéniffey, *Le Nombre et la Raison*, pp. 96–7).

[14] *Ibid.*, p. 70.

[15] *Ibid.*, p. 289.

to have been very restrictive (although there is some uncertainty about where the line of exclusion actually lay).[16] One could say, to use non-contemporary but convenient terminology, that the members of the Constituent Assembly considered the vote a "right," but the holding of office a "function." Since a function was said to be performed on behalf of society, society was entitled to keep it out of unqualified hands. The goal was to reserve the position of representatives for members of the propertied classes, and the Constituent Assembly chose to achieve it by explicit legal means.

The decree provoked immediate objections. Some Constituents argued that the quality of representative should be determined only by the votes and the trust of the people. "Put trust in the place of the *marc d'argent*," one deputy (Prieur) declared;[17] and Siéyès, normally an opponent of democracy, concurred. But such voices were ignored. In 1791, faced with the threat of a radicalization of the revolution and a rising tide of opposition, the Assembly was finally forced to abandon the *marc d'argent* rule. The arrangement that took its place was designed to achieve the same objective by different means. In 1789, the Constituent Assembly had established a system of indirect election that was explicitly conceived of as a mechanism of filtration, which would secure the selection of eminent citizens. It had been decided that voters should gather in "primary assemblies" (*assemblées primaires*) at the *canton* level, and there choose electors (one for every 100 active citizens) for the second stage; these would then meet at the *département* level to elect the deputies.[18] In 1789, the Constituent Assembly had also laid down an intermediate qualification for second-stage electors, namely payment of a tax equivalent of ten days' labor. In 1791, the Assembly dropped the *marc d'argent* rule and the property qualification for representatives, but it retained the system of indirect election and raised the intermediate tax qualification. It was then resolved that only those paying the

[16] Guéniffey estimates that only around 1 percent of the population met that condition (*Le Nombre et la Raison*, p. 100).
[17] Quoted in *ibid.*, p. 59.
[18] Note that the small size of *cantons* (64 sq km) and their large number (4,660) were explicitly designed to limit the distance voters needed to travel to reach their polling place (in the main town of the canton); see Guéniffey, *Le Nombre et la Raison*, p. 276. England probably constituted the countermodel here.

equivalent of forty days' wages could be elected as second-stage electors,[19] a fairly high threshold.[20] Some people denounced "a hidden transfer of the *marc d'argent*."[21] The measure indeed amounted to shifting the barrier of entry from one step of the electoral hierarchy to another. The tacit assumption was that propertied second-stage electors would usually elect representatives from among their ranks, while it could be retorted to the popular movement that these electors were free to select meritorious persons regardless of class. The new regulation did in fact succeed in significantly reducing the number of persons eligible at the second stage (if not in "bringing the revolution to an end," as its promoters hoped). In 1792, any kind of property or tax qualification was abolished, but the principle of indirect election was retained.[22] The Thermidorians went back to the 1791 system: no property or tax qualification for deputies, but a restrictive one for second-stage electors.

Nevertheless, statistical studies confirm that throughout the course of the revolution, including in 1792, second-stage electoral assemblies were dominated by the wealthy classes.[23] This was reflected in the composition of the national representative assembly. The Convention itself was "an assembly of lawyers (52 percent of members) elected by peasants."[24]

The socially selective effect of elections was undoubtedly much less marked than in England, but it was present all the same. In France too, the founders of representative government aimed to establish a system in which the elected would generally be wealthier and more prominent than those who elected them. But whereas in England this result was partly achieved through the silent operation of social norms and economic constraints, in France a similar outcome was achieved by wholly explicit institutional arrangements: the tax qualification for second-stage electors and the principle of indirect election. The system of indirect election, which was

[19] P. Guéniffey, *Le Nombre et la Raison*, p. 61.
[20] On the statistical effects of the forty days' labor wage qualification, see *Ibid.*, pp. 101–2.
[21] The expression was used by Brissot in his journal, *Le Patriote Français*. See Guéniffey, *Le Nombre et la Raison*, p. 61.
[22] *Ibid.*, p. 70.
[23] *Ibid.*, pp. 411–13.
[24] *Ibid.*, p. 414.