

of Zeus with mortal women.² Uncommon (and Hesiodic) verb, identical context, and perfect agreement with the remains of the letters on the papyrus: all this is beyond coincidence. Obviously *POxy.* 2354. 16, when intact, was none other than the very verse which Maximus has preserved.

Mention of the race of kings, γένος κυδρῶν βασιλῆων, many of whom are recorded in the *Catalogue*, is of course hardly surprising in a Hesiodic context. It was Ascræan Hesiod himself who asserted ἐκ Διὸς βασιλῆες (*Theog.* 96). Nor is there the slightest reason to doubt Maximus' familiarity with the *Catalogue of Women*. That this work was still in circulation in his time we learn from the actual papyri, such are the dates of some of them. There exists even more telling, since more specific, evidence. For Maximus himself at 26. 4 (p. 312. 13–15 H.) explicitly reveals that he was familiar with this very poem: καθάπερ δ' Ἡσίοδος, χωρὶς μὲν τὰ γένη τῶν ἡρώων ἀπὸ γυναικῶν ἀρχόμενος, καταλέγων τὰ γένη, ὅστις ἐξ ἧς ἔφυ κτλ., clearly a reference to the *Catalogue of Women*. In yet another passage, 18. 9 (p. 230. 8–10 H.), he mentions, in a comparable context, kings: Ἡσιόδῳ δὲ αἰεῖδουσιν αἱ Μοῦσαι τί ἄλλο ἢ γυναικῶν ἔρωτας καὶ ἄνδρῶν καὶ ποταμῶν ἔρωτας καὶ βασιλέων καὶ φυτῶν;†³

In a word, here is the sixteenth verse, complete and intact, of the Hesiodic *Catalogue of Women*—σπερμαίνων τὰ πρῶτα γένος κυδρῶν βασιλῆων.

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2. Ζεὺς in v. 15 is a restoration, but the sense is not in doubt, even if the *ipsissima verba* may be. Verse 5 begins μισγόμεναι θεοῖσιν, and Poseidon, Ares, and Hermes are mentioned in vv. 17, 18, and 21 respectively. Zeus was certainly named before them. See Lobel on v. 15: "The subject is Zeus, who must have been mentioned in this or the next verse." He was not mentioned in the next verse, as will appear, if it has not already.

3. Both these passages of Maximus contain textual difficulties (which do not affect my argument), but the *editio maior* of Maximus, which has long been in preparation by G. L. Koniaris, is now so near completion that I can with confidence refer the reader to that work for the details.

ΚΛΗΡΩΣΙΣ ΕΚ ΠΡΟΚΡΙΤΩΝ IN FOURTH-CENTURY ATHENS

Most students of Athenian history believe that κλήρωσις ἐκ προκρίτων was used in fifth-century Athens for the election of archons and perhaps of other magistrates but was abolished some time after 458/57 and was no longer used in the fourth century.¹ On the introduction of the procedure, scholars are divided. Some accept the information given at *Athenaion Politeia* 8. 1 that κλήρωσις ἐκ προκρίτων was instituted by Solon and used for all magistrates selected by lot. Others are skeptical and hold that κλήρωσις ἐκ προκρίτων was never used before 487/86.² On this view the ascription to Solon is a reflection of the controversy about the ancestral constitution.

1. Cf., e.g., C. Hignett, *A History of the Athenian Constitution* (Oxford, 1952), p. 227.

2. Cf., e.g., P. J. Rhodes, *A Commentary on the Aristotelian "Athenaion Politeia"* (Oxford, 1981), p. 148 (introduced by Solon); Hignett, *History*, p. 227 (introduced in 487/86).

In a recent monograph V. L. S. Abel has collected and analyzed the evidence for πρόκρισις and has concluded that κλήρωσις ἐκ προκρίτων was still used in fourth-century Athens for all sortitive magistrates, probably even the βουλευταί. To quote Abel: "The magistracies were never intended to and never did include all citizens in turn or even all citizens who volunteered. Candidates for office were always elected in the Athenian democracy from Solon to Aristotle. This election was called *prokrisis*. The allotment of the actual officials was only the final step of the appointment procedure."³ If she is right, the consequences are far-reaching and we will have to revise our view of the nature of the Athenian democracy in the fourth century.

Abel has provided us with a most helpful collection of the sources and the literature on πρόκρισις, and her analysis is thought-provoking and often ingenious. On the central issue, however, I will defend the traditional view: in fourth-century Athens magistrates were either elected or selected by a simple sortition from among candidates who volunteered. For the archons, however, the κλήρωσις ἐκ προκρίτων of the fifth century was replaced by a double sortition, and nomination of candidates was used only in the demes for councillors (we are ignorant of the procedure used). In this article I will discuss the principal sources: Plato *Apology* 35A; Isocrates 7. 22–23; Aristotle *Athenaion Politeia* 8. 1, 22. 5, 62. 1; Demosthenes 57. 46; and some passages from Plato's *Laws*.

I

Plato *Apology* 35A7–B2 is sometimes adduced as an absolute proof that πρόκρισις in the technical sense still existed in 399. The passage runs as follows: οἱ (viz. who fear death) ἑμοὶ δοκοῦσιν αἰσχύνῃν τῇ πόλει περιάπτειν, ὥστ' ἂν τινα καὶ τῶν ξένων ὑπολαβεῖν ὅτι οἱ διαφέροντες Ἀθηναίων εἰς ἀρετὴν, οὓς αὐτοὶ ἑαυτῶν ἔν τε ταῖς ἀρχαῖς καὶ ταῖς ἄλλαις τιμαῖς προκρίνουσιν, οὗτοι γυναικῶν οὐδὲν διαφέρουσιν. According to J. Burnet, A. E. Raubitschek, and Abel, the necessary conclusion from this statement is that κλήρωσις ἐκ προκρίτων was still used in 399 B.C., that is, after the reestablishment of the democracy.⁴ But to evaluate the passage properly one must place it in context and consider not only αἱ ἀρχαί, but the implications for αἱ ἄλλαι τιμαί as well.

From the lines preceding the quotation we learn that the persons referred to by Socrates are Athenians who, when charged with a capital offense, for fear of death behave in a manner unworthy of gentlemen (*Ap.* 35A1–7). But the persons put on trial are not pre-elected candidates, but rather some of the elected magistrates, principally the *strategoi*, who always ran a serious risk of being sentenced to death by a δικαστήριον. The preferable rendering of προκρίνειν, therefore, is not "pre-elect" in a technical sense, but rather "elect, give preference to," as in, for example, Xenophon *Anabasis* 6. 1. 26 τὸ μέντοι ἐμὲ προκριθῆναι ὑφ' ὁμῶν

3. *Prokrisis*, Beiträge zur klassischen Philologie 148 (Königstein, 1983), p. 3.

4. Burnet, *Plato's "Euthyphro," "Apology of Socrates," and "Crito"* (Oxford, 1924), p. 147; Raubitschek, "*Prokrisis* (*Apologie* 35A7–B2)," *Politeia und Res Publica*, Palingenesia, vol. 4 (Wiesbaden, 1969), pp. 89–90; Abel, *Prokrisis*, p. 48.

ἄρχοντα Λακεδαιμονίου ἀνδρὸς παρόντος.⁵ Moreover, Socrates refers not only to magistracies (ἀρχαί) but also to persons entrusted with other honorable tasks (ἄλλαι τιμαί), for example, officials such as envoys who were often put on trial and sometimes sentenced to death. Now, if προκρίνειν in *Apology* 35B2 has its technical meaning, one must conclude that envoys and officials other than magistrates were selected by a κλήρωσις ἐκ προκρίτων. But πρόκρισις was certainly not used in the selection of envoys and is not attested for other τιμαί bestowed by the people on Athenian citizens. So again the meaning of προκρίνειν must be “select the best” rather than the technical sense, “pre-elect candidates.” Plato *Apology* 35A7–B2 cannot, therefore, be adduced as evidence for κλήρωσις ἐκ προκρίτων in 399.

II

A passage in Isocrates’ *Areopagiticus* strongly suggests that κλήρωσις ἐκ προκρίτων was no longer used for electing magistrates when the speech was composed in about 355. In sections 19–35 Isocrates constantly contrasts the deplorable state of contemporary democracy with the ideal ancestral democracy introduced by Solon. The constitution itself is described in sections 20–27. In this part of the speech Isocrates makes extensive use of antithesis and constantly applies the figure κατ’ ἄρσιν καὶ θέσιν (“our ancestors did not . . . but did rather . . .”). The implication is always: our ancestors did not . . . —as we do today. The first, negative part of the figure expresses Isocrates’ view of the contemporary democracy and its institutions. Selection of magistrates is described in sections 22–23 in the following way:

οἱ γὰρ κατ’ ἐκείνῳ τὸν χρόνον . . . ὥκουσιν τὴν πόλιν, οὐκ ἐξ ἀπάντων τὰς ἀρχὰς κληροῦντες ἀλλὰ τοὺς βελτίστους καὶ τοὺς ἰκανωτάτους ἐφ’ ἑκάστον τῶν ἔργων προκρίνοντες. τοιοῦτους γὰρ ἠλπιζόν ἔσεσθαι καὶ τοὺς ἄλλους, οἳ περ ἂν ὦσιν οἱ τῶν πραγμάτων ἐπιστατοῦντες. (23) ἔπειτα καὶ δημοτικωτέραν ἐνόμιζον εἶναι ταύτην τὴν κατάστασιν ἢ τὴν διὰ τοῦ λαγχάνειν γιγνομένην· ἐν μὲν γὰρ τῇ κληρώσει τὴν τύχην βραβεύειν καὶ πολλὰκις λήψεσθαι τὰς ἀρχὰς τοὺς ὀλιγαρχίας ἐπιθυμοῦντας, ἐν δὲ τῷ προκρίνειν τοὺς ἐπικρεστάτους τὸν δῆμον ἔσεσθαι κύριον ἐλέσθαι τοὺς ἀγαπῶντας μάλιστα τὴν καθεστῶσαν πολιτείαν.

Both Rhodes and Abel take the view that προκρίνειν in section 22 has the general meaning “to give preference to the best” and not the technical meaning “to pre-elect candidates.”⁶ On this interpretation, Isocrates’ account is not incompatible with the view that πρόκρισις was still used in fourth-century Athens. But the following observations are, in my opinion, inescapable. (a) According to Isocrates, the procedure used in contemporary Athens was κλήρωσις ἐξ ἀπάντων

5. The passages in which προκρίνειν has the general meaning “elect the best” and not the technical meaning “to pre-elect” are listed and discussed by Abel, *Prokrisis*, pp. 9–10. In his review of Abel in *CR* 33 (1983): 344–45, D. Lewis also doubts the weight of Pl. *Ap.* 35A–B as evidence for κλήρωσις ἐκ προκρίτων.

6. Rhodes, *Commentary*, p. 147; Abel, *Prokrisis*, pp. 10–11, 55–56.

(22), not κλήρωσις ἐκ προκρίτων. (b) The opposition κληροῦντες versus προκρίνοντες clearly indicates that προκρίνειν here has its technical meaning, “to pre-elect.” Accordingly, πρόκρισις is singled out as a characteristic of the Solonian democracy, opposed to the κλήρωσις used in Isocrates’ own day. (c) For a full understanding of Isocrates’ description of πρόκρισις under the ancestral democracy, we must adduce the passage in the *Panathenaicus* where he returns to the problem, now associating the ancestral democracy with the period from Theseus to Solon: περὶ δὲ τοὺς αὐτοὺς χρόνους καθίστασαν ἐπὶ τὰς ἀρχὰς τοὺς προκριθέντας ὑπὸ τῶν φυλετῶν καὶ τῶν δημοτῶν (12. 145). When combined with the last clause of 7. 23 (ἐν δὲ τῷ προκρίνειν κτλ.), this passage allows the following reconstruction: during the ancestral democracy Athenian magistrates were selected by a πρόκρισις conducted locally in the tribes and demes but followed by an election conducted centrally in the ἐκκλησία.

In the light of 12. 145 I suggest the following interpretation of 7. 23: “because of the πρόκρισις [conducted locally] of the most able [candidates], the *demos* [in the ἐκκλησία] will have the power to elect those who are most loyal to the established constitution.” So the procedure is αἵρεσις ἐκ προκρίτων, which is in perfect harmony with what we learn about the Thesean democracy from Demosthenes 59. 75: ἐπειδὴ δὲ Θησεὺς συνώκισεν αὐτοὺς καὶ δημοκρατίαν ἐποίησεν καὶ ἡ πόλις πολυάνθρωπος ἐγένετο, τὸν μὲν βασιλέα οὐδὲν ἤττον ὁ δῆμος ἤρειτο ἐκ προκρίτων κατ’ ἀνδραγαθίαν χειροτονῶν. It is also worth noting that the paper constitution of 412/11 recorded in *Athenaion Politeia* 30 prescribed election from pre-elected candidates as the procedure for filling the most important boards of magistrates: αἰρεῖσθαι δὲ πάντας τούτους [sc. the boards of magistrates recorded above] ἐκ προκρίτων, ἐκ τῶν αἰεὶ βουλευόντων πλείους προκρίνοντας (30. 2). Obviously, αἵρεσις ἐκ προκρίτων was taken, by some Athenians, to be a part of the ancestral constitution; and most important, the procedure was in fact applied in fourth-century Athens to the election of σωφρονισταί: ἐπὶ δὲ δοκιμασθῶσιν οἱ ἔφηβοι, συλλεγόντες οἱ πατέρες αὐτῶν κατὰ φυλὰς ὁμόσαντες αἰροῦνται τρεῖς ἐκ τῶν φυλετῶν τῶν ὑπὲρ τετταράκοντα ἔτη γεγονότων, οὓς ἂν ἡγῶνται βελτίστους εἶναι καὶ ἐπιτηδειοτάτους ἐπιμελεῖσθαι τῶν ἐφήβων, ἐκ δὲ τούτων ὁ δῆμος ἕνα τῆς φυλῆς ἐκάστης χειροτονεῖ σωφρονιστήν (*Ath. Pol.* 42. 2). Again, we are on the track of πάτριος πολιτεία—which is not surprising, since the ἐφηβεία as a whole is closely connected with the attempt to revive the spirit and habits of the ancestors.

In the *Areopagiticus*, therefore, Isocrates must be contrasting the contemporary κλήρωσις ἐξ ἀπάντων with the ancestral αἵρεσις ἐκ προκρίτων. The contemporary κλήρωσις ἐξ ἀπάντων must be meant at 7. 22; the ancestral αἵρεσις ἐκ προκρίτων emerges from the combination of 7. 23 and 12. 145. There may be scholars whose low opinion of Isocrates will not allow a passage from the *Panathenaicus* to be adduced to explain a passage in the *Areopagiticus*. But that does not affect the first half of my statement, which in itself is sufficient to disprove the view that κλήρωσις ἐκ προκρίτων was still used when Isocrates composed his speech in the mid-fourth century. Furthermore, the other evidence for αἵρεσις ἐκ προκρίτων (Dem. 59. 75; Arist. *Ath. Pol.* 30. 2 and 42. 2) supports the view that fourth-century Athenians took double election to be the procedure used by the ancestors.

III

Let us assume, for the sake of argument, that κλήρωσις ἐκ προκρίτων was introduced by Solon and, apart from a short period ca. 514–508,⁷ was upheld by the Athenians throughout the fifth and fourth centuries. How can the information given in the *Athenaion Politeia* about election of magistrates be reconciled with this view? The central passages are the following:

8. 1 τὰς δ' ἀρχὰς ἐποίησε κληρωτάς ἐκ προκρίτων, οὓς ἐκάστη προκρίνειε τῶν φυλῶν. προύκρινεν δ' εἰς τοὺς ἑννέα ἄρχοντας ἐκάστη δέκα, καὶ <ἐκ> τούτων ἐκλήρουν· ὅθεν ἔτι διαμένει ταῖς φυλαῖς τὸ δέκα κληροῦν ἐκάστην, εἴτ' ἐκ τούτων κυμαεύειν.

22. 5 εὐθὺς δὲ τῷ ὑστέρῳ ἔτει ἐπὶ Τελεσίνου ἄρχοντος ἐκυάμευσαν τοὺς ἑννέα ἄρχοντας κατὰ φυλὰς ἐκ τῶν προκριθέντων ὑπὸ τῶν δημοτῶν πεντακοσίων τότε μετὰ τὴν τυραννίδα πρώτων· οἱ δὲ πρότερον πάντες ἦσαν αἰρετοί.

62. 1 αἱ δὲ κληρωταὶ ἀρχαὶ πρότερον μὲν ἦσαν αἱ μὲν μετ' ἑννέα ἀρχόντων ἐκ τῆς φυλῆς ὅλης κληρούμεναι, αἱ δ' ἐν Θησείῳ κληρούμεναι διηροῦντο εἰς τοὺς δήμους· ἐπειδὴ δ' ἐπῶλουν οἱ δήμοι, καὶ ταύτας ἐκ τῆς φυλῆς ὅλης κληροῦσι πλὴν βουλευτῶν καὶ φρουρῶν· τούτους δ' εἰς τοὺς δήμους ἀποδιδόασιν.

For the fourth century Abel suggests the following reconstruction: “as before, each deme elected two groups of candidates, one for the *boule*, the other for administrative offices. The latter equalled the deme’s quota of councillors and was sent to the tribe as that deme’s nominees for all magistracies. From the combined lists of nominees from all the demes in a tribe, i.e., from fifty names, each tribe allotted ten candidates for archon and then the archon himself. From the remaining nominees, presumably plus the unsuccessful candidates for the archonship, the tribe then allotted its representatives to the rest of the boards.”⁸ I have several objections to this ingenious reconstruction.

(1) A straightforward reading of 8. 1 suggests that the Solonian πρόκρισις in the four tribes of forty candidates followed by a final sortition had now been replaced by a selection by lot in the ten tribes of one hundred candidates followed by a final sortition. It is not easy to follow the assumption that πρόκρισις in the tribes had been replaced by πρόκρισις in the demes (cf. 22. 5) and that the final sortition had been replaced by a double sortition, first of one hundred candidates, then of the archons. In *Athenaion Politeia* 8. 1 Aristotle outlines a double procedure, and there is no evidence to support the reconstruction of a triple procedure.

(2) According to the reconstruction outlined above, not only the preliminary but also the final sortition of archons (and other magistrates) took place in the various tribes. But it is apparent from Demosthenes 39. 10 that councillors, archons, and other magistrates were appointed by a central sortition conducted

7. The date Abel suggests for the introduction of pure election of archons (*Prokrisis*, pp. 24, 28) is not convincing. (a) If election had replaced κλήρωσις ἐκ προκρίτων as late as ca. 514–510, it is unbelievable that it was maintained after the expulsion of the tyrants. (b) The view that election was introduced in the period 510–508 is explicitly contradicted by the statement in *Ath. Pol.* 22. 5 that κλήρωσις ἐκ προκρίτων, in the archonship of Telesinus, was used τότε μετὰ τὴν τυραννίδα πρώτων. If κλήρωσις ἐκ προκρίτων was instituted by Solon, it must have been replaced by pure election during the reign of Pisistratus, as is suggested, e.g., by Rhodes, *Commentary*, p. 273.

8. *Prokrisis*, p. 73.

by the *polis*, not by the tribes. Similarly, Aeschines 3. 13 confirms that all sortitive magistracies were filled by a central drawing of lots conducted by the θεσμοθέται in the Theseion. We must therefore separate the nomination of candidates in the tribes from the central sortition of archons.

(3) In 55. 1 Aristotle refers back to his earlier account of how ἄρχοντες were appointed: αὐταὶ μὲν οὖν αἱ ἀρχαὶ κληρωταὶ τε καὶ κύριαι τῶν εἰρημένων [πάντ]ων εἰσίν. οἱ δὲ καλούμενοι ἑννέα ἄρχοντες τὸ μὲν ἐξ ἀρχῆς ὃν τρόπον καθίσταντο [εἴρη]ται· [νῦν] δὲ κληροῦσι κτλ. Now, abrogation of πρόκρισις is not explicitly mentioned either here or elsewhere in the *Athenaion Politeia*. Is it legitimate to infer that πρόκρισις still existed when the *Athenaion Politeia* was composed?⁹ I think not. First, Aristotle does not claim to have covered all steps in the development but only to have described how the ἄρχοντες were appointed originally. Second, arguments from the silence of the *Athenaion Politeia* are always dangerous and often fallacious. Third, on the traditional interpretation of 8. 1 Aristotle has in fact mentioned that the original κλήρωσις ἐκ προκρίτων had been transformed, in his own day, into a double sortition.

(4) It is often believed that the 500 Athenians elected by πρόκρισις in the various demes (22. 5) served not only as candidates for the archonships (as explicitly stated by Aristotle), but also for all the other magistracies filled by sortition, estimated at about 150, that is, about 15 per tribe.¹⁰ Our sources, however, indicate that the number of other magistrates selected by lot was certainly not as low as 150, but probably exceeded 500,¹¹ in which case we must discard the elaborate reconstructions of sortition of all boards of magistrates from among the 500 candidates elected in the demes. We should rather accept the information given at *Athenaion Politeia* 22. 5 that the 500 pre-elected in the demes were candidates only for the archonships, not for other boards of magistrates. Furthermore, the number 500 has often been questioned and interpreted either as a corruption of 100 (Φ for Π)¹² or as a confusion with the appointment of the βουλή.¹³ In fact, other considerations suggest that the appointment of archons should be dissociated from the appointment of other magistrates and should be connected instead with the sortition of councillors. Only archons and councillors underwent a double δοκιμασία, first in the βουλή and then before a δικαστήριον.¹⁴ Similarly, archons and councillors may well have been the only magistrates appointed by a double procedure: a nomination of candidates in the demes (archons in the fifth century and councillors in the fifth and fourth centuries) or in the tribes (archons in the fourth century), followed by a central sortition conducted by the *polis*. All other magistrates appointed by sortition may well have been selected by lot from among candidates who volunteered and presented themselves directly at the central sortition without having been previously nominated.

9. Abel, *Prokrisis*, pp. 53–54.

10. M. Lang, "Allotment by Tokens," *Historia* 8 (1959): 80–89; E. S. Staveley, *Greek and Roman Voting and Elections* (London, 1972), pp. 48–50; Abel, *Prokrisis*, pp. 69–72.

11. Cf. M. H. Hansen, "Seven Hundred *Archai* in Classical Athens," *GRBS* 21 (1980): 151–73.

12. Already suggested by F. G. Kenyon in the first edition of the *Ath. Pol.* and accepted and elaborated by E. Badian, "Archons and *Stratego*i," *Antichthon* 5 (1971): 17.

13. Cf. Rhodes, *Commentary*, pp. 273–74.

14. Cf. Arist. *Ath. Pol.* 45. 3, 55. 2; Dem. 20. 90.

(5) The account given at *Athenaion Politeia* 62. 1 is incompatible with the assumption that candidates for all the boards of ten were pre-elected in the demes. The argument is best presented step by step. (a) Before the reform related in 62. 1, the sortition of *some* boards of magistrates was central and took place in the Theseion. We know from other sources that when the *Athenaion Politeia* was composed the sortition of *all* magistrates (including the councillors) was central and took place in the Theseion (Aeschin. 3. 13; Dem. 39. 10). Consequently, ἐκ τῆς φυλῆς ὅλης (*Ath. Pol.* 62. 1) cannot mean that the final sortition took place in the tribes, but only that tribal divisions were applied when the central sortition took place. (b) According to *Athenaion Politeia* 62. 1, the demes were still involved, in the 330s, in the appointment of βουλευταὶ and φρουροί. (c) Although we have no explicit evidence, I follow the universally accepted view and connect the demes' involvement in the appointment of βουλευταὶ with the nomination of candidates sent to the central sortition. (d) Aristotle's description in 62. 1 strongly suggests that before the reform mentioned the demes played the same role in the appointment of βουλευταὶ as they did in the appointment of the other boards of magistrates entrusted to the demes. (e) For the sake of argument, let us assume that candidates both for the βουλή¹⁵ and for the other boards of magistrates were appointed in the demes by πρόκρισις. (f) It then follows that the demes, after the reform, were no longer responsible for the πρόκρισις of candidates for the various boards of ten, but only for the πρόκρισις of the βουλευταὶ and φρουροί. In conclusion, *Athenaion Politeia* 62. 1 is incompatible with the view that πρόκρισις in the demes was used after the reform for nominating candidates to the various boards of ten. Whether πρόκρισις was used in the selection of βουλευταὶ is an open question: there is no source to contradict such use and no source to support it.

IV

The most important circumstantial evidence for κλήρωσις ἐκ προκρίτων in fourth-century Athens consists of Demosthenes 57. 46–48, 62 and some passages from Plato's *Laws*.

(1) It is true that πρόκρισις was used in the deme Halimous for nominating candidates for the priesthood of Heracles as late as about 350 (Dem. 57. 46–48, 62). But there are important reservations. (a) In Athens, procedures used in the election of priests were often different from and more conservative than the procedures adopted for the appointment of magistrates. The principle that priests were selected by lot from all Athenians and for one year only applied principally to the priesthoods introduced after Cleisthenes, whereas several ancient priesthoods were, even in the fourth century, reserved for certain γένη and filled by election with priests who served for the rest of their lives.¹⁶ Accordingly, κλήρωσις ἐκ προκρίτων attested for the priesthood of Heracles may simply be a survival in the religious sphere and cannot be used as evidence for the continued

15. Cautiously assumed by Abel, *Prokrisis*, pp. 66–67, 77.

16. For the election of priests, cf. D. E. Feaver, "Historical Development in the Priesthoods of Athens," *YCS* 15 (1957): 123–58.

κλήρωσις ἐκ προκρίτων of magistrates. (b) The institutions and procedures used in demes were often different from those used by the *polis*. Accordingly, the κλήρωσις ἐκ προκρίτων attested for the deme Halimous is not evidence that the procedure was still used by the *polis* for election of magistrates.

(2) In Plato's *Laws* both the νομοφύλακες (753D) and the εὐθυνοί (946A) are appointed by κλήρωσις ἐκ προκρίτων. In this case as well as in many others the model may well have been Athens. But we cannot infer that κλήρωσις ἐκ προκρίτων was still used in Athens when Plato devised the ideal city described in the *Laws*. When Plato explicitly copies Athenian institutions, he tends to go back to the archaic or early classical period. For example, the four property classes (744C) are explicitly attested for Athens (698B) and are strictly respected in Plato's ideal city for the election of magistrates; but in fourth-century Athens the property qualifications for magistracies were openly disregarded. Plato's regulations reflect archaic Athenian institutions, not the practices of contemporary Athens.

In conclusion, Plato *Apology* 35A–B is no proof that κλήρωσις ἐκ προκρίτων still existed in 399, and the supporting fourth-century evidence is very weak (Dem. 57. 46–48, 62; Pl. *Leg.* 753D, 946A). On the contrary, Isocrates 7. 22–23 clearly indicates that magistrates in the mid-fourth century were appointed by κλήρωσις ἐξ πάντων, that κλήρωσις ἐκ προκρίτων had been abrogated by the *polis*, and that the ideal ascribed to the ancestors was αἵρεσις ἐκ προκρίτων. *Athēnaion Politeia* 8. 1 shows that archons in the 330s were elected by a double sortition, first of one hundred candidates in the tribes, then of the actual archons by a centrally conducted sortition. *Athēnaion Politeia* 62. 1 is compatible with the view that πρόκρισις may have been used in the demes for prospective βουλευταί; but on this assumption we are bound to infer that it was no longer used by the demes for other magistrates. Thus, κλήρωσις ἐκ προκρίτων was a fifth-century procedure, introduced in 487/86 (*Ath. Pol.* 22. 5) and attested no later than 458/57 (*Ath. Pol.* 26. 2). Whether or not it had been introduced by Solon (*Ath. Pol.* 8. 1) but discontinued in the period ca. 545–487 is a different problem, which I will take up in another study.¹⁷

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17. Only after my article was accepted for publication did I see P. Rhodes' short but judicious review of Abel in *Gnomon* 57 (1985): 378–79.

CICERO'S TESTIMONY AT THE *BONA DEAE* TRIAL

The *Bona Dea* trial marked a decisive turning point in Cicero's career. Because of his testimony against Clodius, a feud arose between the two men which led directly to Cicero's exile in 58 and temporarily destroyed his political influence at a crucial period in the Republic's history.¹ Why did Cicero court Clodius'

1. J. P. V. D. Balsdon, "Fabula Clodiana," *Historia* 15 (1966): 65–73, discusses the course of the trial with full references to the sources.