

## *Introduction*

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This is the study of one particular aspect of government: the random selection of political officers by sortition or lot. Sortition was widely used in Ancient Athens and in the city republics of Italy in the late medieval and renaissance periods. There has therefore been a considerable investment in this form of selection during periods of great importance in the development of our political ideas and practices. With the notable exception of jury selection, however, it is largely absent from today's electoral politics. Despite this there has been a recent revival of interest in sortition both from academic writers and from those involved in practical politics. Much of this has been a response to perceived problems with liberal democracy such as the growing gulf between citizen and professional politician and the exclusion of significant minority groups from the political process.

In the 1970s and 80s there was a growing interest in community politics and randomly-selected citizens' juries were seen as a means of advancing the ideas of a truly participatory democracy. Although the citizens' jury models of this period advocated lot as the means by which citizens were to be selected to serve, there was little attention given to the exact contribution that sortition was to make. From the later 1980s and 1990s, however, a number of more ambitious sortive schemes began to surface, some of which sought to find a closer match between the qualities of sortition and the purpose for which it was to be deployed. These included schemes for the selection of one or other chamber of the UK parliament by lot,<sup>1</sup> a proposal to elect a truly representative Citizen's Legislature for the United States by drawing members randomly from the citizen body,<sup>2</sup> and a

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[1] Barnett and Carty (1998/2008); Sutherland (2004; 2008).

[2] Callenbach and Phillips (1985/2008).

scheme for randomly selected monitors for secret services.<sup>3</sup> This coincided with a debate, mainly amongst political theorists and philosophers, which explored the proposition that the lotteries could provide a just means of distributing social goods.<sup>4</sup>

In 2007, however, the French presidential candidate Ségolène Royal went to the polls with a manifesto that included setting up citizens' juries, selected by lot, to oversee the work of elected representatives. This indicates that sortition might be about to escape from the realms of theory and that very soon selection of citizens for public office by lot could once again become part of our day-to-day political practice.

While this book should be seen as a contribution to an expanding discourse on the subject, I do not advocate any particular scheme, nor, indeed, do I present arguments to persuade the reader that the modern re-introduction of lot would necessarily be a good thing. I am not entirely sure that we are ready for it – lotteries are not a regular part of our current political culture and we lack any practical knowledge of how lottery-based schemes could actually operate within the political arena. My contribution is accordingly based on the premise that a certain amount of theoretical and historical ground-clearing is required in order that a principled and informed framework for understanding the political value of sortition might be established. While I make some suggestions about how we could approach the modern application of sortition in my concluding chapter, I leave open the question of whether such a re-introduction is necessary.

I therefore set out with the straightforward aim of identifying what benefits the random selection of political officers could bring to the political community. This is simply defined by the book's title *The Political Potential of Sortition*, but some aspects of this task are far from simple. By applying the term 'potential' to the project I address the idea that there is a special power or capacity inherent in the lottery that is absent from other forms of selection or decision-making. It also suggests that there are some circumstances, contexts or lottery schemes that will realise this and bring it to fruition, others that will not, and others that will do so only partially or incompletely. To investigate how this operates our starting point has to be the lottery procedure itself – or, to be more accurate, the relationship between lottery form (what a lottery is) and its function (what task it is being

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[3] Nilsen (2007).

[4] Goodwin (2005); Elster (1989); Duxbury (1999).

asked to perform). I attend to this analytical task in Chapter One where I identify the defining feature and chief operating characteristic of all lotteries as the 'blind break'. This is the zone at the centre of the lottery from which all rational activity is deliberately excluded. I therefore characterise the blind break as 'arational' to distinguish it from the operations of both the rational *and* the irrational. It is in this central feature that the potential of sortition lies, and once this is identified it is then possible to talk of applications that make a positive virtue of the blind break, and those that, for whatever reason, do not. We can then assess any application by asking (and hopefully answering) the question 'is lot being asked to do what lot does best?' The identification of the blind break also helps me to make a critical appraisal of the role of lot in probability theory and sampling methods and to investigate the nature of weighted lotteries.

Another device that I employ in order to help discuss and define the action of a lottery is what I call the 'box of possible epithets'. This follows from the indisputable fact that a lottery is a mechanical decision-making process. If we wish to describe the qualities of a decision made by a lottery, then the epithet, or adjective we use must denote a non-human quality—in other words a quality that does not pertain to the human act of making a decision. To help simplify this I imagine a box containing all possible non-human epithets. All of these can be used to describe a lottery decision; we then have to ask which is the most useful for any given analytical task. In Chapter One I present this idea and explain why I single out the term 'arational' as the most important of these possible terms of description.

This chapter is then followed by five chapters in which I attempt to apply these findings to the past practice of sortition in the political arena. To define the 'political' my starting-point is political practice. My focus throughout this study is on the concept of the political community and the process by which people have utilised whatever means they thought necessary to establish efficient, inclusive government and to defend it against dangers such as factional fragmentation or arbitrary oppression. It is in the application of these rule-governed procedures and institutions and in the habits of collective behaviour they create that we find the subject matter of politics. In broader terms I would describe politics as the 'art of the city' in which the term 'city' applies to a community of people rather than merely an urban geographical location. It is also a fitting description because, historically, many of the most significant inno-

vations in the western political tradition took place in cities and it was here that the culture of conscious citizenship was born.

My five historical chapters therefore track the role of sortition against the background of this type of 'struggle for politics'. They are case studies in the application and advocacy of sortition, but they also attempt to portray political practice in its process of development. In some accounts, such as the story of political consolidation in Ancient Athens in Chapter Two, the detailed discussion of the defence of the Second Florentine Republic in Chapter Four and the final historical chapter on the French Revolution, the sense of struggle is immediate and palpable. In nearly all of the contexts I explore, however, the problem of bringing different factions or parties into the same political process or under the same constitution is present in some form or another.

Because all these case studies or historical narratives show what happens when sortition is used or advocated within the cut-and-thrust of political endeavour, they can render a more thorough, all-round account of its potential than if the exploration was based solely on theory and argument. Together they tell the story of the pressures and tensions that attend the decisions to introduce lottery schemes, how they were supported or opposed, and how they performed in practice. Above all they show how lotteries were used or advocated in response to very real problems or crises.

While I am keen to place every scheme in its immediate *active* context, I also try to present the different *constitutional* environments in which sortition operated. In the first instance this enables me to compare the use of lot with other measures designed to produce the same result or contribute to the same ends. On a more general level, however, it also allows me to make comparisons between different forms of government in a particularly pointed manner. This is directly related to the question of modern advocacy. If we are to advance sortition as a solution to modern problems and in the context of modern political systems, we should be aware of the differences between our current arrangements and those where sortition was more widely practised. We cannot rebuild Ancient Athens or renaissance Florence in the twenty-first century, but if we are aware of the constitutional context of any lottery scheme we can then make an intelligent appraisal of how well a similar scheme might address similar needs in the modern polity.

The attention given to the constitutional context of sortition in this study also allows us to understand the part played by random selection in our political inheritance. By comparing different govern-

mental arrangements we can begin to see sortition against a broad panorama of political ideas and practices leading towards the present. Furthermore, if we look at a number of political communities, some of which have had a considerable impact on our own, we can begin to formulate a concrete understanding of the 'political community' in a general sense.

An additional benefit of exploring the use of lot by using historical case studies can be found in the idea of problem solving. In each historical chapter certain problems or questions presented themselves as being more important or significant than others. In Chapter Two the problem or question that demanded the greatest attention was the relationship between sortition and democracy in Ancient Athens. Was sortition, as suggested by Aristotle and others, a defining feature of democracy as a polity type, or are there other ways that the story of their unfolding relationship could be told? My approach to this was to look at the role of lot in what I call 'political consolidation'. This is the process by which the authoritative institutions and rule-governed procedures necessary for consensual government were established. It was in this process that sortition played a pivotal role and the rational political order it helped to create enabled the *demos* to participate fully in public affairs. In this chapter I had deliberately to 'de-couple' lot from its close association with the developed democracy of fifth century Athens in order to investigate how its earlier use fostered the conditions that made democracy possible.

The main subject of Chapter Three is the comparison between two lottery-based schemes for election from the late medieval communes and republics of northern Italy. The earlier form, the *brevia*, is an essentially public form of choosing electors by lot; the later form, the *scrutiny*, was practised in Florence and a few other city republics. It consisted of the election of a pool of candidates whose names were then drawn out at regular intervals to fill political posts as they fall vacant in rotation. Many parts of this scheme were private or secret and this feature contrasts pointedly with the earlier *brevia*. Both lottery schemes are designed to inhibit factional intrigue and electoral irregularity, but operate in very different ways and with differing constitutional objectives. The main problem was to determine the precise function of sortition in each case.

In Chapter Four the focus narrows to deal with events in Florence in 1465–6 and in 1497–9. In both these short periods lot was used to defend the popular republican institutions of the city – in the first against the arbitrary rule of the Medici dynasty, in the second

against the threat to the new republic posed by an invigorated aristocratic faction. As well as exploring how lot figured in the political defence of popular Florentine republicanism, this chapter looks at contemporary works by Machiavelli and Guicciardini in which they both advocate and criticise the use of sortition. The fall of the Second Florentine republic in 1530 sees the end of this particular popular republican model in Europe in which lot traditionally played an important role. A scheme put forward by Machiavelli in 1520 is very much within this tradition. The more aristocratic Guicciardini, however, advocates a new form of popular republic in which preference election plays a major part. He also revisits and re-writes the Florentine debates of 1497–9 in three different works, the most significant being a pair of dramatised speeches, one for and one against the use of lot. He is one of the few writers in the European tradition to take the issue seriously and in this chapter I advance various reasons why I think he does this and what it tells us about the changes in political thinking that were taking place at this time.

The final two chapters look at the practice and advocacy of sortition in contexts where its political use was less widespread. My main aim here is to investigate how its political potential was understood and realised in such circumstances. Chapter Five tells how James Harrington's *Oceana* advances ideas for a republican constitution for Britain based on the Venetian model – which makes widespread use of sortition. His ideas are then taken up in some of the experimental constitutions of the American colonies. The only form in which it is consistently adopted, however, is the randomly selected jury. This first makes its appearance in South Carolina in 1682. The jury plays an important part in the struggle for press freedom that occurs during the latter part of the eighteenth century in both England and America, and within this context there are some attempts to see sortition as a means of embedding justice in the community. In this chapter I trace some of these developments and look briefly at the relationship between the secret ballot and sortition. Both were originally part of the same integrated elective model practised in Venice, but in this period the secret ballot begins to be used without its sortive element. In addition to these general themes the chapter looks at a range of 'stand alone' lottery schemes and explores how the special problem-solving potential of sortition operates outside the context of its systematic political usage.

In the final historical chapter I look at how the political actors in the French Revolution understood the political potential of sortition. As the body politic began to creak and groan under the

pressure of competing factions, a number of lottery-based schemes were adopted. The effects, however, were short-lived and they were, in some cases, counter-productive. Here I examine the role of practical experience in the design and implementation of lottery schemes and raise the question why the French were unable to draw from the success of Italian republicanism in this area.

The key feature of this study, however, is not the historical detail or the historical problems it raises, but the combination of political practice with analysis of lottery form and function. A few words need therefore to be said about how this combination operates. Because I identify the blind break as the central component of the lottery, I can then divide applications between 'strong' uses, which make a positive virtue of the blind break, and 'weak' uses, which do not. This distinction enables me to address a very particular and very important problem. While there are many historical and theoretical accounts that testify to the use of lot for the selection of political officers, there is a distinct shortage of surviving accounts that explain *why* it was used. This situation is further complicated by the fact that where discussion of sortition exists, it is more often than not in the writings of its detractors. These accounts tend to downplay or avoid mention of the possible benefits of using lot, portraying it as irrational, unstable or contrary to the principle of picking the best person for the job in hand.

To understand exactly what sortition might be bringing to any of the political systems we investigate and to assist in the general case of determining the political potential of lot we therefore need to adopt a process of intelligent reconstruction. This, of course, can be significantly assisted if we bring information from the active context and the constitutional context of any application into the equation. But we can also get a clearer idea of exactly why lot was used in any instance by actively searching for significant reasons why using an arational process could be advantageous, and how these might outweigh any disadvantages that might accrue from using this method of choice.

In the first instance this enables us to distinguish between the action of the arational lottery process itself and those consequences of using a lottery that are in fact the result of rational design decisions—such as might concern the size and nature of the pool. The idea that the use of lot to select political officers increases citizen participation in government is an example of this. The *main* reason why lottery schemes can achieve high levels of citizen participation is because the pool is opened to all citizens, not because an arational

mechanism is used for their selection. In our search for the political potential of sortition it is important that we understand which part of the lottery process is doing what.

In our process of reconstruction it is also important that we are able to separate minor reasons why lot might have been introduced from more significant reasons why it might have been used. The idea that lot forms a 'logical' or 'convenient' means of establishing a rotational system could have been the reason that many sortive schemes were introduced—lot is, after all, quick and easy to administer once established.<sup>5</sup> This, however, does not take us to the heart of what lot, as a specifically arational means of making decisions, contributes to the process of selecting public officers. To be convenient or logical does not require arationality. The distinction between strong and weak applications of lot therefore helps to keep the general aims of the enquiry in focus, and helps us to assess the value of particular examples or explanations.

I end this introduction, paradoxically, with a sort of conclusion. It concerns the nature of the subject itself, the lottery. This conclusion is that the lottery is a complex phenomenon. It is multi-sided in the sense that it has many functions or aspects; these often come into operation at the same time and invariably seem to be of equal importance. A lottery decision is impartial, unpredictable, amoral, arational, unemotional, anonymous—to take but a few items from the 'box of possible epithets'. It is a social phenomenon, in the sense that it is a human invention that is used in a social setting and, usually, in the pursuit of social ends. At the same time, however, it denies the operation of the human qualities of thought, intention, will and morality. It is linked to the idea that there are some times when choices can (perhaps should) be taken out of our own hands, and as such stands at the threshold of some of the most profound areas of human speculative thought. It is also used for some of the most frivolous of human pastimes: those of gambling and games of chance.

Despite this complexity, it is also a commonplace in human culture. It is simple to operate, is universally used, and its benefits and risks intuitively grasped by young and old. My aim in this study is to make inroads into one particular application of the lottery and to see what it reveals of itself when subjected to a rigorous, but I hope not too abstract, framework of inquiry. I also aim to explore what possible benefits it can produce if its capacity is understood well

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[5] See Manin (1997), p. 31 and Hansen (1999), p. 236.

and applied appropriately. So saying, I do not suppose this will be the last word on the subject – the lottery is too elusive to be pinned down for any length of time. During the course of my investigation I have seen this beguilingly simple mechanism throw up many surprises – and I fully expect this to continue.

### Bibliographical notes

For the newcomer to the subject the classic contributions are Headlam's 1891 *Election by Lot at Athens* (Headlam, 1933) and Gataker's *Of the Nature and Use of Lot of 1619* (Gataker, 1627). Both of these have recently been republished: the Headlam by Kessinger in their Legacy Reprint Series, the Gataker by Imprint Academic (2008). The third important historical contribution is Guicciardini's *Del modo di eleggeri gli uffici nel Consiglio Grande*, which is unfortunately not readily available and has not yet been published in English. Of the more recent historical accounts Bernard Manin (1997) devotes a considerable portion to the use of lot, both in Ancient Athens and elsewhere. He does this, however, largely as a preliminary to his evaluation of representative government.

The second half of the twentieth century offered up a flurry of political writers who advocated the use of lot as an element in their new democratic participatory packages. In this group I include Dahl (1970), Barber (1984), Burnheim (1985), Callenbach and Phillips (1985, republished 2008), and those who promoted the 'Citizens' Jury' initiatives in the 1970s and 80s – particularly Crosby in Crosby, Kelly and Schaefer (1986), and Dienel in Dienel (1989) and Dienel and Renn (1995). As a general rule these writers advocate rather than explore sortition. Carson and Martin's solid *Random Selection in Politics* (1999) chronicles these developments well. For the reform of the House of Lords see Barnett and Carty (2008; originally 1998), and for a similar scheme in a different political context see Sutherland (2004; 2008). Nilsen's contributions can be found on the web sites [www.sortition.com](http://www.sortition.com) and [www.sortition.org.uk](http://www.sortition.org.uk) (Nilsen, 2007).

In addition to the major contributions mentioned above, see also journal articles by: Amar (1984); Aubert (1959); Boyle (1998); Coote, Stewart, Kendall (1997); Eckhoff (1989); Engelstad (1988); Fishburn (1977); Frienberg, (1971); Greely (1977); Hofstee (1990); Kuper (1996); Mueller, Tollinson, Willett (1972); Mulgan (1984); Sher (1980); Stone (2007 and 2007b) and Zeckhauseur (1969).

There have also been a number of recent writers within the general orbit of political theory and philosophy who have shown an interest in lot. The best of these are the full-length works of Elster (1989), Goodwin (2005) and Duxbury (1999), along with some notable short works by Broome (1984, 1991). Of these Goodwin adopts a more consistent political orientation in her exploration of the relationship between justice and the lottery. A notable contribution with a different starting point can be found in Gobert (1997). This looks at random selection for political office from the perspective of its surviving institution, the jury, and is a further exploration of the ideas found in the short but important article 'Upon the Country ...' by Maurice Pope (1989).

Discussion of lotteries also forms a sub-section of rational and social choice literature. Zeckhauser (1969) is responsible for bringing the lottery into this area of discourse on the ground made fertile by Arrow, von Neumann and Morgenstern. This is followed up in Fishburn (1977).