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COURTS, MAGISTRATES AND ALLOTMENT PROCEDURES: A NEW INSCRIBED KLEROTERION FROM HELLENISTIC ATHENS¹

Abstract: A marble allotment machine (*kleroterion*) recently discovered in Athens (inv.no. ΠΑ 2176) is here published for the first time. This is the fourth example of a *kleroterion* inscribed with the name of the Treasurer of the *prytaneia* Habron, son of Kallias, of the deme Bate. The office seems to have been a creation of the 2nd century B.C. After revisiting the extant *kleroteria*, I propose to lower their date to the 160s.

Keywords: Allotment, court fees, law courts, sortition, treasurer

Students of ancient political theory are well aware of a tenet that almost unfailingly bewilders newcomers to the field. The salient feature of ancient democracies, first and foremost of Athens' paradigmatic democratic system, was not election, but sortition. With very few exceptions, magistrates and judges, the human agents of ancient polities, were determined by the contingencies of fortune rather than by the will of the people.² For the modern viewer, nothing exemplifies the ubiquitousness of sortition in Classical democracy in a more tangible manner than that archetypal

¹ I would like to express my gratitude to the organizers of the Symposium, especially Prof. Harter-Uibopuu, for their kind invitation and for tolerating my last-minute schedule changes. For financial and institutional assistance, I am grateful to Professor Nagy and Harvard's Center for Hellenic Studies, where I held a fellowship back in 2011, on which occasion I started work on the *kleroterion* under consideration. I received substantial help from Adele Scafuro and Angelos P. Matthaiou, with whom I was able to carry out autopsy of IG II³.4.106. Ryan Culpeper carefully proofread my text. Evangelos Kroustalis generously shared with me his unpublished dissertation on the topography of the area to the north of the Acropolis. My warmest thanks go to my old friend and erstwhile colleague Dimitris Sourlas, who discovered the artifact I am presenting here. Our original plan was to produce a joint publication, but Dimitris very kindly allowed me to proceed by myself with the publication at hand.

² Some scholars have recently problematized this picture (e.g. Demont 2001), rightly showing that oligarchies also used sortition, but the matter of fact remains that Classical thinkers, like Aristotle (e.g. *Politics* 1294b7-9, λέγω δ' οἷον δοκεῖ δημοκρατικὸν μὲν εἶναι τὸ κληρωτὰς εἶναι τὰς ἀρχὰς τὸ δ' αἰρετὰς ὀλιγαρχικόν), did stress the link between sortition and democratic constitutions.

democratic device, the κληρωτήριο (allotment machine). Numerous fragments of allotment machines have been found in excavations throughout Athens. Archaeology, it will appear, offers incontrovertible evidence in support of the ancient literary sources. Yet this neat picture is marred by a paradox that is hardly, if ever, acknowledged. Most of the allotment machines that have come to us from Athens date to the Hellenistic era.³ Unbeknownst to scholars, democratic Athens is garbed in fabric borrowed from its humbler offspring.

In my contribution I intend to show that this paradox is more perspectival than real; that Hellenistic Athenian democracy per se is a respectable research subject. I first present a new inscribed *kleroterion* discovered in the early 3rd millennium. Subsequently, I revisit a series of similar contemporary *kleroteria* and I explore select historical aspects emerging from this analysis.

In 2003, the Greek Archaeological Service undertook an investigation of an old building located at 98b Adrianou Street. This is a location in the old district of Plaka, in the heart of modern and, most importantly, ancient Athens. The excavation in question brought to light several artifacts, all of them in secondary use. Amongst them, one can single out two important epigraphical documents. The first is a partly preserved marble stele with two Hellenistic decrees of the Athenian Council, one of them, unfortunately, very fragmentary. I had the opportunity to publish the stele in question in 2017. Although I will be returning to this inscription later, let me state in advance that the second, better preserved, decree, dating to the end of the archontic year 103/2 B.C., proved to be of great importance. Amongst others, it showed that the rather enigmatic ‘Supervisors of the Lawcourts’ (ἐπιμεληταὶ τῶν δικαστηρίων) were active already in the 2nd century B.C. Most importantly, it offered the first attestation of the trials known as ‘monthly trials’ (ἔμμηνοι δίκαι) in the Hellenistic era, whereas it was previously thought that this type of trial had ceased after the end of the Classical period.⁴

The second inscribed monument found at 98b Adrianou Street was a fragmentary allotment machine, a *kleroterion*, that is now kept in the storeroom of the Library of Hadrian with the inv.no. ΠΑ 2176. This inscription will be the starting point and focus of my study.

Description. Uppermost part of a white Pentelic marble *kleroterion* of the common ‘aedicula’ type (figure 1). Traces of a vertical rounded groove that widens at the top can be seen on the badly damaged left side of the monument. They belong to the funnel, which is easier to make out if one looks at the *kleroterion* from above (figure 2). Of the two pilasters, only the left one is partly preserved on the left side of the *kleroterion* (figure 3). The horizontal cornice of the Doric entablature is broken along the front, but the *taenia* underneath is better preserved. It is decorated

³ Cf. Demont 2010; Papazarkadas 2011.

⁴ Full analysis in Papazarkadas 2017.

with *regulae*, of which the left is missing, the central is complete, having a length of 0.07m and a total number of 6 *guttae*, whereas the right one is broken and only preserves 3 of its *guttae*. The 0.07m-high architrave bears a fragmentary two-line inscription.⁵ In the main body of the *kleroterion* there is a slightly recessed frame that seems to have been intended to receive an unidentified object (see below). The depression has a width of 0.10m, whereas its preserved height is 0.065m. To the left it is formed into a tab-like border. No slots are preserved. Height (preserved): 0.22m; width (preserved): 0.50m; thickness: 0,195m; letter height: 0.010m (omicron: 0.006m)

[τ]αμειούοντος ἐπὶ τὰ πρυτανεῖα
[Ἀβρω]νοῦ τοῦ Κ[αλ]λίου Βατῆθεν

When Habron, son of Kallias, of the deme Bate
was Treasurer in charge of the *prytaneia*.

The text of the inscription is laconic and hardly new: in fact, this is the fourth example of the same text inscribed on a similar monument. The previous three were lumped together by Kirchner in *IG II² 2864*, but properly published by Sterling Dow in his monumental 1937 monograph.⁶ The three texts have now been re-edited by Jaime Curbera in the new *Inscriptiones Graecae Attic* series as *IG II³.4.106*, 107, and 108. The better-preserved specimen, *IG II³.4.106*, was found on the Acropolis, something that Dow took as an indication that the *kleroterion* was dedicated there; I suspect that this is simply a *Pierre errante*. Regardless, *IG II³.4.107* and 108 were found in the area of the now demolished church of Saint Demetrios Kataphores. Of the three monuments, it is *IG II³.4.107* that resembles the most the new *kleroterion* from Adrianou Street, especially because of the very similar roughened depression. Dow, by the way, believed that the depression would have been used to attach a papyrus showing the name of the tribe controlling the *kleroterion* or the court associated with the machine.⁷ On my part, I would not discount the possibility that some thin wooden or metal plaque was attached to the depression, but this is no more than an educated guess.

First, a word about the *prytaneia* of line 1: readers of the proceedings at hand will hardly need to be told that the term has nothing to do with the prytanies, the tribal contingents that were so important for Athenian administration. The term simply designates court fees deposited ahead of trials.⁸ The standard definition is

⁵ The lettering of ΠΑ 2176 resembles that of the ‘Cutter of Agora I 247’, who produced his work from 194/3 to 148/7 B.C. (Tracy 1990, 99-109); see also note 29 below.

⁶ Dow 1937, 203-205 nos. II-IV.

⁷ Dow 1937, 204.

⁸ In the following two paragraphs, I synopsise what I presented in detail in Papazarkadas 2017, 338-340. To the bibliography cited there, add Cassayre 2010, 276-278.

given by Pollux, *Onomastikon* 8.38: “The *prytaneia* were specified, how much the plaintiff and the defendant respectively had to deposit prior to the trial; if they did not, the Introducers cancelled the trial. Whoever was defeated (at the trial) would pay up the amount given by both sides; the jurors received that (amount).”⁹ *Prytaneia* appear fairly frequently in decrees of the 5th century B.C., starting already with the Hekatompedon inscription (*IG* I³ 4). In a famous passage from Aristophanes’ comedic court drama *Wasps*, they are enumerated amongst the city’s revenues.¹⁰ Writing at roughly the same time, the Old Oligarch implies that such *prytaneia* were regularly paid by citizens or members of the Delian League, who were legally obliged to present themselves to the Athenian courts ([Xen.] *Ath. Pol.* 1.16). Recently, Scafuro dealt with such court fees in her comprehensive article on the economics of the court, in which she demonstrated that, at least in the Classical period, the *prytaneia* would not have sufficed to cover the jurors’ salary.¹¹

How different were, however, the *prytaneia* of the Hellenistic period? In order to gauge this question, we have to turn our attention to the magistracy of the Treasurer of the *prytaneia*. The office is not attested in the Classical period. In the Hellenistic period, however, it is known not only from the three published *kleroteria* of Habron, to which we must now add the new one, but from other epigraphical sources too. I start with *IG* II² 971 of 140/39 B.C., a rather otiose honorary decree in which the honorand, Telesias of Xypete (a naturalized citizen of Troizenian origin), was awarded an impressive array of crowns for numerous offices he had held throughout his career. Among others, Telesias received a crown from the Athenian Council for his service as Treasurer of the *prytaneia* (ll. 36-39: ἡ βουλή ἰ ταμιεύσαντα πρυτανείων). Later, towards the end of the 2nd century B.C., Charias, son of Charias of the deme Aithalidai, contributed 70 drachmas during his tenure of the treasurership of the *prytaneia* (*SEG* XXIV 194). The monetary sum may look modest, but the same man served on other occasions as gymnasiarch of the Hermaia, priest, and *agoranomos* at Delos, as general in charge of the navy (στρατηγὸς ἐπὶ τὸ ναυτικόν), and as official for the safekeeping of the sacred monies at Delos (ἐπὶ τὴν φυλακὴν τῶν ἱερῶν χρημάτων).¹² Overall, such evidence

⁹ Pollux, *Onomastikon* 8.38: τὰ μὲν πρυτανεῖα ὀρισμένα, ὅτι ἔδει καταβαλεῖν πρὸ τῆς δίκης τὸν διώκοντα καὶ τὸν διωκόμενον· εἰ δὲ μή, διέγραφον τὴν δίκην οἱ εἰσαγωγεῖς. ὁ δ’ ἤττηθεις ἀπεδίδου τὸ παρ’ ἀμφοτέρων δοθέν, ἐλάμβανον δ’ αὐτὸ οἱ δικασταί.

¹⁰ Arist., *Vesp.* 656-659: καὶ πρῶτον μὲν λόγισαι φαύλως, μὴ ψήφοις ἀλλ’ ἀπὸ χειρὸς, ἰ τὸν φόρον ἡμῖν ἀπὸ τῶν πόλεων συλλήβδην τὸν προσίοντα ἰ κᾶξω τούτου τὰ τέλη χωρὶς καὶ τὰς πολλὰς ἑκατοστάς, ἰ πρυτανεῖα μετὰλλ’ ἀγορὰς λιμένας μισθοὺς καὶ δημιόπρατα (“First of all, calculate roughly, not with counters but on your fingers, how much tribute we receive altogether from the allied cities. Then make a separate count of the taxes and the many one-percents, court dues, mines, markets, harbors, rents, proceeds from confiscations”; translated by Henderson 1998).

¹¹ Scafuro 2015, 367-370, 389.

¹² Papazarkadas 2017, 338.

strongly suggests that the office of the Treasurer of the *prytaneia* was held by distinguished citizens.

Three further pieces of evidence can be added to this small assemblage. First, there is a rather overlooked catalogue of officials, first published by Peek in 1942.¹³ This seems to be a list of Athenian, mostly military, magistrates receiving honours of a sort, to judge from the consistent use of accusative forms. In line 9 of the *editio princeps* Peek restored [τὸ]ν ταμίαν τῶν πρ[υτάνεων]. However, as I have already argued elsewhere, this cannot be correct. We do know of treasurers of prytanies (πρυτανία), but these were tribal officials, whereas the magistrates of Peek's inscription are without exception state officeholders.¹⁴ I am therefore more than confident that the correct restoration in line 9 is [τὸ]ν ταμίαν τῶν πρ[υτανείων].¹⁵ Here some chronological comments are imperative. *SEG* LXI 151 was roughly dated by Peek to the first half of the 2nd century B.C., but Tracy suggested a date in the late 3rd century B.C. on paleographical grounds.¹⁶ I would like to note, however, that the rather strange office of the tarantinarch, which appears in the document under consideration, is firmly attested for the first time in 153/2 B.C. and, in general, it is considered to be a 2nd-cent. B.C. invention.¹⁷ Most importantly, the prosopographical evidence strongly points towards the middle of the 2nd century B.C. First, the Treasurer of the Military Fund Polycharmos of Azenia (Il. 5-6) has been identified with the homonymous proposer of an ephobic decree of 127/6 B.C.¹⁸ Second, the Treasurer of the Grain Fund Dositheos of Myrrhinous has been identified with the homonymous *hieropoios* of the Delian festival of Apollonia of 143/2 B.C.¹⁹ I would be therefore willing to push the date of Peek's catalogue towards the middle of the 2nd century B.C., if not after 150 B.C.

The second piece of evidence is yet another overlooked inscription, a list of offices discovered at the American excavations of the Athenian Agora. The document in question provides, in the words of its first editor, "a partial record of constitutional procedure in the middle of the second century B.C."²⁰ Amongst

¹³ Peek 1942, 22-24, no. 25; see now *SEG* LXI 151.

¹⁴ We find, for instance, the peripolarch (*SEG* LXI 151, l. 4), the treasurer of the military funds (*SEG* LXI 151, l. 6), the tarantinarch (*SEG* LXI 151, l. 14), and the secretary of the *demoi* (*SEG* LXI 151, l. 16).

¹⁵ See Papazarkadas 2017, 338-339 n. 62.

¹⁶ More specifically, Tracy 1990, 49, ascribed this catalogue to his 'Cutter of *IG* II² 1706' (fl. 229/-ca. 203 B.C.).

¹⁷ Bugh 1988, 197; Camp 1996, 257-258; Bugh 2011, 292-293; Couvenhes 2011, 305.

¹⁸ See Traill, *PAA* nos. 782240 (Polycharmos the treasurer) and 782245 (Polycharmos the proposer); the identification goes back to Reinmuth 1955, 233.

¹⁹ Traill, *PAA* nos. 379260 (Dositheos the treasurer) and 379265 (Dositheos the *hieropoios*).

²⁰ The inscription was first published by Meritt 1934 42-43 no. 31, who dated it shortly after 167/6 B.C., on the basis of the lettering and a reference to the Athenian cleruchy of Myrina. A slightly improved edition was provided by Crosby 1937, 460-461 no. 8, line 1:

various magistracies, many of them obscure, to say the least, one finds a plausibly restored reference to the Treasurer of the *prytaneia*. Incidentally, a striking feature of the list is that many officials, albeit not the Treasurer of the *prytaneia*, are designated as allotted (εἰληχώς), another indication of the ubiquity of allotment procedures in Hellenistic Athens. The date is also worth keeping in mind: this is a document issued after 167 B.C.

The latest attestation of the Treasurer of the *prytaneia* is to be found in the aforementioned Council decree of 103/2 B.C. In a nutshell, a certain Antipatros passed legislation concerning the *emmenoi dikai* and called for the publication of his decree in two stelai, at the expense of the Treasurer of the *prytaneia*: τὸ δὲ γινόμενον ἀνάλωμα με[ρ]ίσαι τὸν ταμίαν τῶν πρυτανείῳ [– – –]ἰον Παλληνέα (Decree B, ll. 10-11). In the *editio princeps*, I suggested that the Treasurer might have been Deinias of Pallene, who around the same period served as Official in Charge of the Sacred Affairs. One could criticize the argumentation behind this tentative identification as circular; that is, I tried to fit in the gap the name of someone of high social status, thus making a point about the elevated status of the Treasurer of the *prytaneia*. Yet the very fact that the Treasurer of the *prytaneia* is explicitly named is a prime indication of his high standing. The practice of recording in decrees the personal names of serving treasurers first appeared in 181/0 but never became the norm, so much so that it is generally believed, rightly in my opinion, that it marks the distinction of the holder of said office.²¹ Not “name and shame”, but “name and claim fame”, if I am allowed an easy pun.

At any rate, the cumulative evidence unequivocally shows that the Treasurer of the *prytaneia* was a Hellenistic invention, and a relatively late one at that. Moreover, the occurrence of the Treasurer of the *prytaneia* in the new Council decree of 103/2 B.C. is important for a further reason: it confirms, if confirmation were needed, that the office was indeed related to the lawcourts, which is why he, rather than the commonly evoked Treasurer of the Military Fund, was invited to cover the cost for the publication of legislation pertaining to trials.²²

I now move to the man who served as the Treasurer in charge of the *prytaneia* in the new *kleroterion* from Plaka as well as in *IG II³.4.106-108*. Habron, son of Kallias, of the deme Bate, was a scion of an illustrious family that could trace its origins back to the 4th century B.C., if not earlier.²³ Until fairly recently, it used to

[ταμίας ἐπὶ τὰ πρυτανεία. I am grateful to Adele Scafuro for bringing this piece of evidence to my attention, which I did not consider in Papazarkadas 2017.

²¹ Papazarkadas 2017, 338-339.

²² Papazarkadas 2017, 340.

²³ See Davies' superb analysis in *APF* no. 7856, Καλλίας (II) Ἀβρωνος (II) Βατηθεν (with stemma of the early members of family in table IV). In Davies' *APF* our man in Ἀβρων (III) Καλλίου (III) Βατηθεν. A full stemma of the family, from the 4th down to the late 2nd century B.C., can be found in Tréheux and Charneux 1998, 249 fig. 2, where the Habron of the *kleroteria* is Habron I, son of Kallias I. See also *Athenian Onomasticon* s.v. Ἀβρων (12); *PAA* s.v. Ἀβρων nos. 101533, 101540, 101545, 101547, 101549);

be believed that Habron was active around the middle of the second century B.C. This picture has been slightly modified in recent years, wrongly as I will be arguing presently. Now, Habron's family played a prominent role in the political and social life of the 2nd century B.C. Of Habron's various activities, I should mention that he was a *proxenos* at Delphi in 189/8 B.C.²⁴ and that he served as a *hieropoios*, sacred-doer, for the Athenaia in 156/5 B.C.²⁵ I also note that in 183/2 B.C. Habron made a contribution towards a public loan on behalf of his wife Aristoboule and his sons Kallias and Ophelas.²⁶ This, it has long been understood, means that both of Habron's sons were still minors. Habron may well have been between 35 and 55 years of age at the time.

These are then the three incontestable dates in Habron's career: showing up for the first time in 189/8 B.C., Habron was still active at an advanced age in the mid-150s. Now, Stephen Tracy, the indisputable master of Athenian lettering, claimed some years ago, on epigraphical grounds, that the *kleroteria* bearing Habron's name should be dated around 180 B.C.,²⁷ a chronological suggestion that has now been endorsed by Curbera in the new *IG* fascicle.²⁸ It goes without saying that when it comes to the issue of dating by letter-forms Tracy's opinion carries extra weight. On the other hand, Tracy himself has never ceased to state that dating by letter-forms is always a delicate, sometimes even treacherous, affair. And both Tracy and other prominent epigraphists have time and again emphasized that historical context should always take precedence over formulaic criteria. This is an avenue I would like to explore, and further argue that, for once, Tracy's chronological suggestion should be treated with caution.²⁹

Rolando 2004, 153 no. 1, gives a misleading impression of Habron's career (189/8-183/2 B.C.)

²⁴ *Syll.*³ 585 ll. 106-107 (= no. 41).

²⁵ *IG* II² 1937, l. 9. The document is dated by virtue of the eponymous archon Kallistratos, for whom see Meritt 1961, 237. The identification of the festival has long been a problem. Mikalson 1998, 275 with note 90, thinks of the Delian Athenaia, contra Habicht 1982, 177, who thinks of the Chalkeia. Parker 2005, 462-463, is non-committal, but draws attention to the festival's 'elaborate scale'.

²⁶ *IG* II² 2332, 189-193, Ἀβρων Βατήθεν | καὶ ὑπὲρ τῆς [γυ]ναϊκὸς | Ἀριστοβούλ[η]ς Δ | καὶ ὑπὲρ τῶν ὑ[ῶν] Καλλ[ί]ου | καὶ Ὀφέλου Δ, with Tréheux and Charneux 1998, 250.

²⁷ Tracy 1990, 247.

²⁸ The high chronology has also been endorsed by Tréheux and Charneux 1998, 253; Rolando 2004, 153; Lopez-Rabatel 2019, 64.

²⁹ To be fair, Tracy himself phrased his observations in his typical careful manner. He assigned the lettering of two of the *kleroteria*, *IG* II³.4.106 and 108 to 'the school of I 247'. This means admittedly 'no more than a general similarity to the hand in question' (Tracy 1990, 6), but note that the 'Cutter of Agora I 247' had a very long career from 194/3 down to 148/7 B.C. (Tracy 1990, 99-109). Regardless, as I have already indicated, the lettering of the new *kleroterion* does resemble that of the 'Cutter of Agora I 247'.

The four *kleroteria* recording Habron are not the only examples of inscribed allotment machines to have come to us. Another similar *kleroterion* has long been known. It too was recently re-edited by Jaime Curbera, as *IG II³.4.109*:

-----?-----
 [ἐ]πί Ποσειδωνίου ἄρχοντος ἀνέθηκαν

An obvious question arises: what is the subject of the verb ἀνέθηκαν? Strangely, in his detailed study of the object, Sterling Dow did not venture an answer, even though he speculated, by comparison to *IG II².4.106* (see below) that an extra line would have been once inscribed on the damaged cornice.³⁰ I will set the question aside for the time being. What really matters at this point of my discussion is the date of the *kleroterion* in question. For once we do have a date, namely the archonship of Poseidonios, that is the year 162/1 B.C. One has to keep in mind that *IG II³.4.109* is the only *kleroterion* that provides a firm date. All other examples should be dated with regard to the *kleroterion* from the year 162/1 B.C.

But this is not the end of the story. When Sterling Dow brilliantly solved the riddle of the function of the *kleroteria* he did so helped by two important examples, *Agora XV 220* and *221*.³¹ These are two prytany decrees that were inscribed on the rear side of two *kleroteria* in the archontic year 164/3 B.C. The re-use of the *kleroteria* as stelae is explicitly mentioned in the partly, but plausibly, restored publication clauses of the two texts.³² Dow and subsequent scholars assumed that these were antiquated *kleroteria* that had once been used by the entire Council. Indeed, *Agora XV 220* contains a total of 300 slots,³³ which, assuming that this was one of two identical *kleroteria*, would suggest an original use at the time of the 12

³⁰ Dow 1937, 202.

³¹ First published by Dow 1937, 142-147 nos. 79-80 (also 206-207 nos. VI-VII).

³² *Agora XV 220* ll. 26-29: ἀναγράψαι δὲ τόδε] τὸ ψήφισμα [τὸν γρ^νἰαμματέα τὸν κατὰ πρυτανε]ίαν εἰς κληρ[ωτήρι]ον λίθινον καὶ στήσαι αὐτὸ ἐν τῷ τεμ[ένει] ἐν ᾧ ὁ κληρ[ος] ἐκρίθη]; *Agora XV 221* ll. 10-12: ἀναγράψαι δὲ τόδε^ν] [τὸ ψήφισμα τὸν γραμματέα τὸν κατὰ πρυτανείαν εἰς] κληρωτήριον λίθι[νον] καὶ στήσαι αὐτὸ ἐν τῷ τεμ[ένει] ἐν ᾧ ὁ κληρ[ος] ἐκρίθη. The expression ἐν τῷ τεμ[ένει] ἐν ᾧ ὁ κληρ[ος] ἐκρίθη, which has been reconstructed from the few extant letters that survive on the two stelae, has been translated by the editors of *Agora XV* as “the sanctuary in which the selection by lot was consummated”. This is a unique phrase that has not drawn scholarly attention, with the exception of Demont 2003, 32-33, who understandably found it difficult. On the other hand, as Demont pointed out, the reference to the *temenos* seems secure. The *temenos* in question might have been the shrine of Theseus: see infra note 56.

³³ Thus explicitly Dow 1937, 207. The assertion of the editors of *Agora XV*, p. 182 (“A reasonable restoration of No. 220 shows room for a full 600 slots”) is erroneous, as Adele Scafuro pointed out to me; however, their tentative attribution of both *Agora XV 220* and *221* to the period of the 12 tribes seems reasonable; see next note.

tribes,³⁴ in other words at some point between 307/6 and 224/3, or after 200 B.C. No one seems to have wondered why a decision to withdraw these *kleroteria* from circulation was taken in 164/3 B.C.,³⁵ but in view of the *kleroterion* from 162/1 B.C., I strongly suspect that something major was going on in the 160s with regard to allotment procedures.

In fact, it is very likely that in 164/3 B.C. the Athenians removed from circulation some of the earlier *kleroteria*, precisely because a decision had been made to produce new ones, like those inscribed with Habron's name. That this was a central decision of the Athenian state can be seen in another small, yet important detail. In 1937, in his publication of the *kleroterion* from the Athenian Acropolis (now *IG II³.4.106*), Dow noticed traces of letters on the cornice, even though he was unable to produce a meaningful text.³⁶ Several years ago, I had the opportunity to inspect the stone in the Epigraphical Museum along with Dimitris Sourlas, the archaeologist who brought to light the new *kleroterion* from 98b Adrianou Street. The Acropolis *kleroterion* is on display in the permanent exhibition of the Epigraphical Museum, and we were therefore unable to use charcoal or any other aid, but the letter traces were clear (figure 4).³⁷ The opening formula on the cornice reads:

ἡ β[ο]υλιὴ ἡ ἐπι[τ]ὶ ----- ἄρχοντος -----]

Unfortunately, the eponymous archon's name cannot be retrieved, but I would strongly favor an archon from the late 160s. In any case, in light of the new reading offered above there can be no doubt that the Athenian Council was heavily involved in the making of the new *kleroteria*. This observation might also help us solve the aforementioned enigma of the missing subject of the *kleroterion* *IG II³.4.109*. On present evidence, the most likely agent of dedication of that *kleroterion* would be the

³⁴ Cf. Demont 2010: "Pourquoi le *klèrôtèrion* sur lequel figure l'inscription n° [220], tel qu'il est reconstitué par les archéologues, est-il un appareil à six colonnes, correspondant donc à un appareil utilisable pour le tirage au sort d'un Conseil à l'époque où Athènes a comporté douze tribus... ?"; Lopez-Rabatel 2019, 64: "Le *klèrôtèrion* n° 3, daté par l'inscription de 164/3 est pourvu de six colonnes. À supposer qu'on ait utilisé conjointement un *klèrôtèrion* jumeau, on avait un total de 12 colonnes, ce qui correspond aux douze tribus qu'Athènes a connues de 200 à 127 [ap. J.-C]."

³⁵ To be sure, Dow 1937, 210 with note 2, put forward some interesting ideas, albeit in the most concise and hesitant manner ("For none of these propositions is there any evidence"). Of these, Dow's first theory (abandonment of allotment on a large scale) should be rejected on the evidence of *Agora XVI 305* (see below). The other two theories are of a utilitarian character, and, with some modification, tally well with my own interpretation below.

³⁶ Dow 1937, 203-204 no. II.

³⁷ Curbera, in his description of *IG II³.4.106*, notes "Tit. in epistyllo exaratus", but the inscription is worn, rather than deliberately erased.

Councilors, οἱ βουλευταί. In turn, the evidence of *IG* II³.4.109 allows us to restore the verb ἀνατίθημι in what now becomes line 1 of *IG* II³.4.106:³⁸

ἡ β[ο]υλή ἡ ἐπ[ι] - - - - - ἄρχοντος ἀνέθηκεν]

Finally, I would like to draw attention to another feature of Habron's *kleroteria* that has passed unnoticed. In all four examples, we encounter the construction of the genitive absolute ταμειύοντος. The present tense emphasizes that the *kleroteria* were constructed while Habron was still serving as a Treasurer.³⁹ For contextual reasons I have analyzed above, his tenure of office almost certainly belongs to the 160s, late in his career. He was probably the main disbursing authority for the manufacturing of the *kleroteria* that bear his name.⁴⁰ What emerges then from this evidence is a systematic attempt to highlight the agents involved in this major administrative overhaul of the 160s.

In order to explore the question of what might have triggered this interest in *kleroteria* in the 160s, I will indulge myself in a brief digression on the previous state of judicial affairs in Hellenistic Athens. I will pass over the first period of Demetrios Poliorketes, which is explored by Ilias Arnaoutoglou elsewhere in the volume at hand, who shows that Athens' return to democracy in 307/6 B.C. was accompanied by a resuscitation of the judicial system.

Allotment, for instance, one of the salient features of radical democracy according to a famous Aristotelian extract, was certainly being used for the manning of lawcourts, and in fact it was considered important enough to warrant explicit reference in a decree of 284/3 B.C. (*IG* II² 1163). In that document a certain Phyleus was honored, amongst others, for having supervised the allotment of the courts justly and in compliance with the laws, no doubt as a *thesmothetes* representing his tribe.⁴¹

In fact, ill-informed as we are about numerous aspects of Hellenistic lawcourts, we know of at least one sector of public life in which lawcourts played an important role, namely naturalization procedures. Throughout the Hellenistic era, the *thesmothetai* routinely introduced grants of citizenship to courts consisting of 501

³⁸ Attic epigraphy has produced several examples of the formula ἡ βουλή ἡ ἐπὶ τοῦ δεινός ἄρχοντος followed by the verb ἀνέθηκεν; see, e.g. *IG* II³.1.306, ll. 1-2: ἡ βουλή ἡ ἐπὶ Πυθοδότου [ἄρχοντος] ἀν[έ]θ[η]κεν | Ἡφαιίστωι στεφανωθεῖς[α ὑπὸ] τοῦ δήμο; *IG* II² 1425, ll. 313-315: ἡ β[ο]υλή | ἡ ἐπὶ Χαρισάνδρου ἄρχον[τος] | ἀνέθηκεν; *IG* II² 2797, l. 1: [ἡ β]ο[υ]λή ἡ ἐπὶ Τηλοκ[λέου]ς ἄρχοντος ἀνέθ[η]κεν, etc.

³⁹ Cf. Goodwin 1867, 16.

⁴⁰ Kroustalis 2018, 117.

⁴¹ *IG* II² 1163, ll. 3, 8-13: ἐπειδὴ Φυλεὺς... ἐπιμελεῖται διὲ καὶ τῆς κληρώσεως τῶν δικαστ[η]ρίων καὶ τῶν ἄλλων ὧν αὐτῶι οἱ τ[ε] | νόμοι καὶ τὰ ψηφίσματα προστάττουσιν δικαίως καὶ κατὰ το[ῦ]ς νόμους (Inasmuch as Phyleus... is superintending the allotments of the law-courts and other things that the laws and decrees enjoin honestly and in accordance with the laws...).

jurors. In his *opus magnum*, Michael Osborne firmly associated the judicial scrutiny with the democratic periods of Athenian administration, demonstrated that it only became a regular feature of citizenship decrees after 229, and concluded that it probably replaced the *graphe paranomon*, the erstwhile public prosecution process par excellence.⁴² If so, far from being a decorative element, Hellenistic lawcourts suddenly turn out to be an important component of Athens' political life.

Archaeology tells a similar story of vigorous judicial activity. Several bronze ballots have been found in Athens, of which most are associated with the courts rather than with other state institutions. In particular, some of the class III examples, a class comprising unscribed ballots of relatively small diameter, have been found in good 3rd-century B.C. contexts, and it is generally believed that the latest examples may well reach into the 2nd century B.C.⁴³ Lead ballots, which seem to have replaced bronze ones in an attempt to economize, also seem to belong to the late Hellenistic period.⁴⁴

Likewise, lead tokens dating to the third century have long been recognized as dikastic equipment: the jurors used them either to be allocated seats in designated areas or as pay-vouchers in order to receive their payment.⁴⁵ As aptly noted by Boegehold, a dikastic joke preserved in a 3rd century B.C. fragment of the comic poet Machon is only meaningful within the context of a fully operating court system.⁴⁶ All in all, the Hellenistic period was not one of decline of juridical institutions.

However, the inscribed *kleroteria* of the 160s analyzed above evince some extraordinary, newly acquired dynamics. Nor does this evidence stand alone. A strangely overlooked piece of evidence is *Agora XVI 305*, a fragmentary decree dating to the archonship of Lysiades, probably 148/7 B.C. Enough text survives to make it clear that this is not yet another formulaic decree, yet not sufficiently enough to establish what is the exact issue at stake. Arguably, the most striking feature of *Agora XVI 305* is the triple repetition of the word κλήρωσις. The term appears in line 10, where the grammatical case cannot be established, in line 19, in the genitive κληρώσεως, and finally in line 21, in the nominative, i.e. ἡ κλήρωσις. Woodhead, the editor of *Agora XVI*, thought that the term might have referred to some kind of territorial allocation. However, I am in agreement with Stephen Tracy that the word here has its primary meaning, sortition, although whether it refers to the courts or to non-judicial boards of magistrates is more difficult to determine.⁴⁷ At any rate,

⁴² Osborne 1983, 164-167.

⁴³ M. Lang, in *Agora* 1995, 86, 89 nos. B35 and B36.

⁴⁴ See especially M. Lang, in *Agora XXVIII* no. B52.

⁴⁵ A. Boegehold in *Agora XXVII*, 68.

⁴⁶ A. Boegehold in *Agora XXVII*, 239.

⁴⁷ For the record, Tracy 1990, 152-154, believed that the text did not refer to lawcourts but to the allotment of the board of the archons mentioned in ll. 35-66 ([τῶν ἐν]λέ' ἀρχόντων).

Agora XVI 305 is a good reminder that sortition mattered a lot around the middle of the 2nd century B.C.

Is there a wider picture then? Let me begin with a topographical observation. Two of Habron's old *kleroteria* were discovered in the (now demolished) Church of Saint Demetrios Katephores. The new *kleroterion* ΠΑ 2176 was found in the very same area, less than fifty meters north of the erstwhile church. Along with it, was found the new decree that concerns the *emmenoi dikai*. Moreover, the allotment machine dedicated in the archonship of Poseidonios was found in the area of the Library of Hadrian, about 150 meters west of 98 Adrianou Street. Finally, the small *kleroterion*-fragment published by Boegehold in 1995 was found at the excavation of the so-called Diogeneion, hardly 30 meters south of 98 Adrianou Street. The geographical pattern is clear enough: with the exception of the Akropolis *kleroterion*, the others come from a rather well defined area north/northeast of the Sacred Rock. To cut a long story short, in my *Hesperia* article I argued that it is in that area of Athens where we should seek the Athenian courts, at least those of the Hellenistic period.⁴⁸

One can be excused for believing that all lawcourts were in the area of the Athenian Agora. Several were certainly there, but not all. It is true that the only buildings securely identified as courts were located on the eastern side of the Agora.⁴⁹ They were succeeded by the so-called Square Peristyle, a building thought to have been designed with the aim of bringing under the same roof all the separate heliastic lawcourts.⁵⁰ But the Square Peristyle itself, which by the way was never completed, was dismantled in the early 2nd century B.C, and around 150 B.C. the whole area was occupied by a building all too familiar to the modern visitor of Athens, the impressive Stoa of Attalos. In other words, the late Hellenistic lawcourts should be sought elsewhere.⁵¹

The evidence I have adduced above points towards the area to the east of the Library of Hadrian, along and south of Adrianou Street. As I have argued elsewhere, this might well have been the area that was known in late Hellenistic Athens under the generic name τὰ δικαστήρια, "the lawcourts", a collocation attested in the publication clause of a decree dating circa 100 B.C.⁵²

⁴⁸ Papazarkadas 2017, 350-352.

⁴⁹ R. F. Townsend, in *Agora XVIII*, 104-108.

⁵⁰ See R. F. Townsend, in *Agora XVIII*, 108-113.

⁵¹ Recently, this point was duly observed by Dickenson 2017, 154-157, but his topographical suggestion fails to convince.

⁵² *IG II² 1062*, lines 6-8: ἀναγράψαι [[δὲ]] τόδε τὸ ψήφ[ισμα ἐν στήλῃ λιθίνῃ τὸν γραμματέα] | τὸν κατὰ πρυτανείαν καὶ στήσ[αι ἐν ἀκροπόλει καὶ ἐν τοῖς δικασ]τήριοις ('let the Secretary of the Council inscribe this decree on a stone stele and set it up on the Acropolis and in the lawcourts'). See Papazarkadas 2017, 351 with note 120, where I pointed out that in the ensuing disbursement clause (ll. 8-9), the restoration μερίσαι δὲ αὐτῶ[ι τὸν ταμίαν τῶν πρυτανείων τὸ γενό]μενον ἀνάλωμα, is epigraphically tenable and conceptually more cogent than the traditional [τὸν ταμίαν τῶν

Interestingly, about 200 meters south of 98 Adrianou Street probably lay the Prytaneion,⁵³ the most reverent civic space of ancient Athens, and a site closely linked with judicial activity. Indeed, various sources identify the Prytaneion as a homicide court, and more specifically as a court for cases of murder committed by an unknown perpetrator, an animal, or an inanimate object. After all, this oft-forgotten judicial aspect of the Prytaneion must be the reason why the court-fees I discussed earlier were known as the *prytaneia*. This tentative association is not new: it was proposed a long time ago by Bonner and Smith in their 1930 monograph on Greek judicial administration.⁵⁴

Nor should we associate *kleroteria* exclusively with the courts. Selection by lot was a salient feature of Athens' civic administration. There is, in fact, a site that in our sources is habitually associated with sortition, namely the sacred precinct of Theseus.⁵⁵ Although the Theseion has not been found, most scholars believe that it was located exactly in the area where most of the inscribed *kleroteria* have been found. Incidentally, I consider it likely that this was the *temenos* mentioned in the publication clauses of the two reused *kleroteria*, *Agora XV 220* and *221*.⁵⁶ At any rate, here I can only repeat what I have already stated in my *Hesperia* article: overall, there are many indications that the whole area to the east of the Library of Hadrian, all the way to the Prytaneion, might have been a hub of allotment procedures and judicial activity.

My second point is of a historical nature. Habron's *kleroteria*, the allotment machine dedicated in the archonship of Poseidonios, the allotment decree *Agora XVI 305*, and most —arguably all— the epigraphic attestations of the Treasurer of the *prytaneia*, all belong to the mid-2nd century B.C. or slightly later. Besides one can hardly fail to notice that the new Council decree of 103/2 B.C. attests to *emmenoi dikai*, a type of trial usually associated with commercial transactions. To take up a question that has been pending for some time: what triggered Athens' newly discovered obsession with sortition in the 160s and how are we to account for the intensive juridical activity in the second half of the 2nd century B.C., as emerges from our epigraphical sources? Running the risk of offering a monolithic simplistic

στρατιωτικῶν]; if so, we gain yet another attestation of the Treasurer of the *prytaneia*. In his important unpublished dissertation, Kroustalis 2018, 115-119, is in agreement with my proposal that we should look for the late Hellenistic lawcourts near the findspot of the new *kleroterion*, and in fact he provides further evidence in support of this theory. He would prefer, however, to place the complex of the lawcourts north, rather than south, of Adrianou Street.

⁵³ For the location of the Prytaneion, see Kroustalis 2013 and, in more detail, Kroustalis 2018, 89-115.

⁵⁴ Bonner and Smith 1930, vol. I, 63-65; cf. Papazarkadas 2017, 352.

⁵⁵ Daverio Rocchi 2001, 97-101.

⁵⁶ *Agora XV 220* ll. 26-29 (supra note 32), esp. ἐν τῷ τεμ[ένει]. It is noteworthy that, as Daverio-Rocchi 2001, 97 note 6, has aptly observed, the shrine of Theseus is routinely called a *temenos* in the ancient sources.

interpretation, I believe that chronological and historical considerations point towards one direction: Delos and its return under Athenian control in 167 B.C. Athens' reacquisition of Delos brought about unexpected financial prosperity. Besides, Athens reacquired some of its erstwhile cleruchies, the revenue-producing islands of Lemnos, Skyros, and Imbros.⁵⁷ After 167 B.C., the wider Athenian economic zone experienced intensive activity not seen since the end of the Classical period. But increased commercial and other financial transactions inevitably resulted in an increasing number of disputes, whose expeditious adjudication must have become a priority for the Athenian state. It is this financial prosperity, evident also in the numismatic evidence, which accounts for the rejuvenation of the courts and the proliferation of allotment procedures, which, after all, had never really died out, but which acquired extra impetus after 167 B.C.⁵⁸

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⁵⁷ Habicht 1997, 217-218.

⁵⁸ For further details, see Papazarkadas 2017, 352-354. It is worth noting that fragments of marble *kleroteria* very similar to those from Athens have been found in Delos. Moretti 2001, 142-143, provisionally dated them to the period of Delian independence, but it is not impossible, in fact it is historically more plausible, that they should be linked with Athens' occupation of Delos after 167.

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FIGURES



Figure 1: The new *kleroterion* ΠΛ 2147
(copyright: Ephorate of Antiquities of Athens)

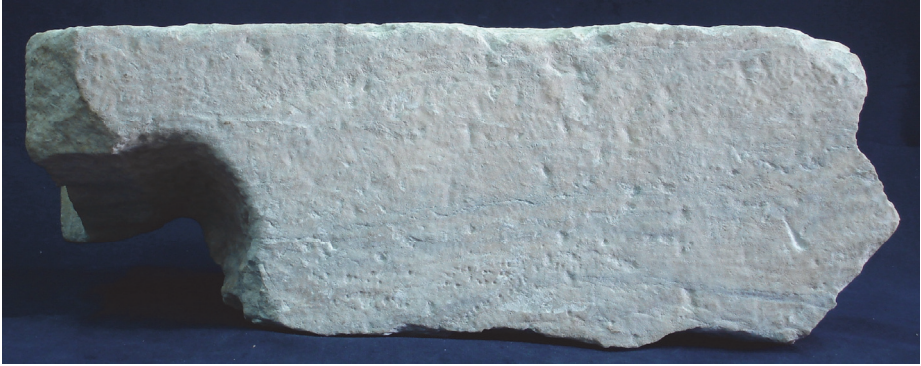


Figure 2: Upper side of IIA 2147 (copyright: Ephorate of Antiquities of Athens)



Figure 3: Left side of IIA 2147 (copyright: Ephorate of Antiquities of Athens)



Figure 4: *IG II³.4.109* (Epigraphical Museum);
detail of the newly read inscription
(photo: Adele Scafuro)