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The $\theta\eta\nu\alpha\omega\nu$ Πολιτε α and the $\mu\epsilon\tau\epsilon\mu\epsilon\tau\eta\mu\eta$

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THE 'Αθηναίων Πολιτεία AND THE ἡμέρα διαμεμετρημένη.

WHEN the 'Αθηναίων Πολιτεία was first printed, the fourth roll, containing the last six columns of the treatise, appeared in an almost hopelessly mutilated condition. Now, through the labours of many scholars, it has been almost entirely restored, and in the recent edition issued under the auspices of the Berlin Academy the text is continuous, save for one single passage. Elsewhere, though the exact method of filling some of the lacunas may be open to question, the sense is now almost always fairly certain.

The passage which still resists restoration occupies nineteen lines in the middle of col. 34 (ch. 67, §§ 4, 5, and ch. 68, § 1), and the subjects with which it deals are the apportionment of time between the pleadings and the consideration of the verdict, and the numbers of jurors composing the court on various occasions. An attempt has recently been made by Dr. Photiades, a Greek lawyer resident in Smyrna, to ascertain the sense of the mutilated passage, and

thereby to promote its restoration.¹ Dr. Photiades has devoted a series of articles in 'Αθηνά during the last few years to an elaborate study of the organisation of the Athenian law-courts as set forth by Aristotle, and his researches have played their part in the restoration of the last six chapters of the treatise. His present article does not complete the task, since it does not even claim to restore all the defective lines, but it is a contribution towards the desired end which deserves notice. Where the materials for reconstruction are so slight as in the present case, the first step is to ascertain the general sense of the mutilated passage, and on that basis it may be possible to restore the exact words with more or less certainty.

The passage in question stands as follows in the most recent edition (I print it here in the lines of the manuscript, for convenience of reference):

- 7 διαμετ[ρεύεται δὲ πρὸς τὰς ἡμέ]ρα[ς το]ῦ Ποσι-
δεώνος [μηνὸς] ἀρ[ο] . . . νται
χρῶντ[αι] ια[. . .] τενταισ
10 τακλι[.] ἀπ[ο] . . . [α]σιν οἱ
δι[κ]ασ[ταὶ] ολ[. . .] εἰς ὃν ἔ-
καστοι λ[.] τε[. . .] γὰρ ἔσ-
πυδον [.] πετ[. . .] ρος ἐξω-
θεῖν τοὺς [.] λει . . ν ὕδωρ
15 λαμβαν[.] εἰ[σὶν, δ] μὲν ἔτε-
ρος τοῖς δ[ι]ώκουσιν, ὁ δὲ ἕτερος τοῖς φ[ι]λόγου[σ]ιν.
ἐν δὲ τοῖς [.] ατ[ο] [. . .] ἐξείλε
τῷ διαψη[φισμῷ] ω . δι[α]ρ[ο]εῖται δ' [ἡ]μέ[ρ]α[ς]
ἐπὶ τοῖς [.] ἀγώ[ν]ων ὁ[ς] τοῖς πρόσ-
20 εστι δεσμ[ὸς ἢ θάνατος ἢ φυγὴ ἢ ἀτ]μία ἢ δήμευσις
χρημάτ[ων] μοις [δ] τι χρὴ παθεῖν
ἢ ἀποτεῖ[σθαι] α τῶν [δικ]αστηρίων
ἐστὶ φ[.] σο . . [. .] ασιν ὅταν
δὲ δέ[η] ας εἰς αἰ[ε]τ[ο]σάγαγεῖν
25 συν[έρχεται β] δικαστή[ρια εἰ]ς τὴν ἡλιαίαν
τα . [.] κνῶ[. . .] εἰς φ[. . .] καὶ α,
τρία [δικαστήρια.

Lines 7-22 are evidently occupied with the apportionment of time in various kinds of cases, and the only chance of restoring them, even approximately, lies in ascertaining, from other evidence, from general considerations, and from the scanty remains, the main purport of the passage. The working day of the law-courts, we are informed in l. 7, was based on the duration

of daylight in the month Posideon, when the days were shortest; and this, according to an astronomical authority quoted by Dr. Photiades, was 9 hours, 25·8 minutes. According to Aeschines (*De Fals. Leg.* 126) the total length of the day, as

¹ Περί τῆς διαμεμετρημένης ἡμέρας καὶ τῆς δικαστικῆς κλεψύδρας, κατὰ τὴν Ἀριστοτέλους Ἀθηναίων Πολιτείαν, in 'Αθηνά, τόμ. ιδ' (Athens, 1904).

measured by the clepsydra, was 11 amphorae; which gives a value of about 51 min. to the amphorae, and 4·3 min. to the *χοῦς*.¹ Consequently in private suits, in which 10 *χοῦς* was the largest allowance for a single speech, no speech can have been longer than 43 minutes. With regard to public suits, to which a whole day was allotted, a different method of calculation must be adopted. Here we know that the total time was divided into three sections, one for the prosecution, one for the defence, and one for constituting the court at the beginning of the proceedings and taking its vote at the end (or votes, in the case of *δίκαι τιμηταί*, in which the jurors had to vote twice). Dr. Photiades calculates that the jurors could not pass the voting-urns at a rate of more than 10 a minute, and consequently that a court of 1501 jurors, such as was employed in the most important cases, would spend 2½ hours in the simple act of voting in a *δίκη ἀτίμητος*, or 5 hours in a *δίκη τιμητή*. This is manifestly absurd, and it must be supposed that a separate pair of urns was provided at least for each 500 jurors (the normal size of a court), which would reduce the time spent in voting to 50 minutes. Add an hour for the process of

constituting the court, and 40 minutes for the distribution and counting of votes, and we have 2½ hours as the allowance for the jurors in a *δίκη ἀτίμητος*, and at least 4 hours in a *δίκη τιμητή*. In the latter case, consequently, the jurors would have required more than a third of the whole working day; and Dr. Photiades' theory is that in a *δίκη τιμητή* half the day (or 4 h. 42 min.) was allotted to the jurors, and a quarter (2 h. 21 min.) to each of the speakers, while in a *δίκη ἀτίμητος* the division was equal, the court and each speaker having 3 h. 8 min. assigned to them.

These calculations are necessarily uncertain (for example, 10 votes a minute seems a low rate when the jurors had nothing to do but to pass in succession and drop their vote into an urn), and in any case they do not help us to restore the mutilated passage in Aristotle, since it is evident from the remains that it did not deal with the subject in this numerical manner. Dr. Photiades' principal contribution in this direction is the suggestion that the distinction between *δίκαι τιμηταί* and *ἀτίμητοι* found a place in it; and accordingly he restores ll. 17–21 thus:

ἐν δὲ τοῖς [τιμητοῖς ἀγῶσι
τῷ διαλη[φισμῷ τῷ δευτέρῳ]· δι[αιρ]εῖται δ' [ἡ] ἡμ[ε]ρ[α]
ἐπὶ τοῖς [γ]. τιμητοῖ δὲ τῶν ἀγῶ[ν]ω[ν] ὅ[ς]οις πρόο-
εστι δεσμ[ὸς] ἢ θάνατος ἢ φυγὴ ἢ ἀτ[μ]ία ἢ δήμενις
χρημάτων, καὶ οὐ κείται ἐν τοῖς νό[μο]ις [ὅ]τι χρὴ παθεῖν
ἢ ἀποτεῖ[σθαι].

The papyrus gives no help here, the missing words being wholly lost, not merely defaced, while the readings of the extant portions are fairly certain. The general sense, however, of the restoration seems satisfactory. In the preceding lines (7–16) Dr. Photiades, though he offers no restoration, would find a statement that a portion of time was assigned to the dicasts (for their verdict, etc.) equal to the allowance given to each of the litigants. I am inclined rather to think that they only contained a fuller statement as to the regulation of time between the parties to it, and the necessity for such regulation. Line 8 probably goes with the preceding

words; of the letters at the end of the line none is certain except ρ and perhaps ν (which might, however, be ω, or some combination of parts of letters). In sense and extent such a supplement as *ὅταν αἱ ἡμέραι ὧσι βραχύταται* would be suitable. A new clause probably begins with *χρόνται*, containing perhaps a statement of some determination or control by the dicasts, governing the length of time assigned to the orators; and this is apparently followed (l. 12) by an explanation that otherwise the first speaker would always have attempted (or formerly did attempt) to encroach on the time left for his adversary, whereas now equal terms are secured for both. Then comes a reference to the necessity, in the case of *τιμητοῖ ἀγῶνες*, for a second ballot, and a definition of the cases coming under this category.

For ll. 22–25 Dr. Photiades suggests the following restoration:

¹ To interpret Aeschines as meaning that each speaker had eleven amphorae for his speech (and the jurors presumably the same for considering their verdict) gives an impossibly short time to those speeches which were limited to ten or fewer *χοῦς*.

[τὰ δὲ δημόσι]α τῶν [δικ]αστηρίων
 ἐστὶ φ[α], καὶ τούτοις τὰ δημ[ό]σια [διδό]ασιν ὅταν
 δὲ δέ[η] τὴν ἐκ τῆς ἐκκλησί[ας] εἰς ἂ εἰ[σαγαγεῖν,
 συν]έρχεται β[ε] δικαστή[ρι]α εἰς τὴν ἡλιαίαν.

* *δημόσια* suits the size of the lacuna better than Wilcken's πολλά but the phrase τὰ δημόσια τῶν δικαστηρίων, as equivalent to τὰ δημόσια δικαστήρια, is questionable, and is not justified by the reference to c. 59, 5 τὰ δικαστήρια τὰ ἑῷ ἴδια καὶ τὰ δημόσια. In l. 23 οσια is certainly not the reading of the papyrus, but there has been an erasure and a correction, which make the interpretation of its remains harder even than usual. On the whole, however, it seems more natural to look for some such sense as this: 'the ordinary courts consist of 500 (or 501) jurors, and to these the ordinary cases are assigned; but when it is necessary to bring more important (or public) cases before 1000 jurors, then two courts sit together.' This is the sense given by the restoration of Kaibel-Wilamowitz; but it cannot be said that the wording of the passage is yet satisfactorily settled.

In this brief notice it has been impossible to do justice to all Dr. Photiades' arguments.

and much of his article (which includes sections dealing with *δίκαι ἀνεν ὕδατος* and the mechanism of the clepsydra) has been wholly passed over. It may be doubted whether certainty will ever be arrived at, except in the unlikely case of the discovery of another MS. of the *Ἀθηναίων Πρωτόκολλα*. The lacunas are too large to be bridged by conjecture alone, and we have not (as in the case of some other passages which long resisted restoration) faint relics of writing to assist and verify our conjectures. Nevertheless the main sense of most of the passage is now fairly attainable, and on the whole of the complicated machinery of the Athenian lawcourts we are now not far from possessing the whole substance of Aristotle's exposition. That this is so, is due to the conscientious labour and thought of several scholars, among whom Dr. Photiades has earned a foremost place.

F. G. KENYON.

A QUANTITATIVE DIFFICULTY IN THE NEW METRIC.

THE learning and insight of Otto Schroeder seldom fail to illuminate any subject to which he applies himself. Not content with his great edition of Pindar [1900], he has during the last year, by his papers in *Hermes* and *Philologus* on the metres of Pindar, placed himself well at the front of the new metrical movement in Germany. The latter of these two papers,¹ a discussion of the 'Æolic Strophes' of Pindar, suggests a question, which has not, so far as I know, been touched upon by any of the new metricians, but which seems to me to have some bearing upon our acceptance of their views.

It is well known that one of the striking innovations proposed by the new school is the rejection of the so-called 'cyclic dactyl,' when it occurs singly, in a trochaic series, as in the Glyconic colon

$$- \geq | - \cup \cup | - \cup | - \wedge .$$

A typical case of the new method of treating such a colon appears at the very outset of

the paper to which I have just referred. Schroeder takes up the strophe of Pindar's second *Nemean*, which begins

ὅθεν περ καὶ Ὀμηρίδαι.

This colon is scanned by Christ

ॐ नमो भगवते वासुदेवाय ॥

But Schroeder, in common with most of the reformers, rejects the 'cyclic dactyl,' and resolves the colon into a series of iambs, with one trochee.

٢ - ١ - ٢ - ١ - ٢

The succession of longs and shorts is of course the same by either scansion, but according to the new system the words *περ καί* form a trochee, the diphthong in *καί* being shortened before the following vowel.

It is precisely at this point that my question presents itself. It has long been regarded as settled that this shortening of a

¹ *Philologus* 62, 2 [1903].