The Vatican Fragments of Greek Political Theory

James H. Oliver

Aly published in Studi e Testi 104 (1943) two folia (A and B) of a palimpsest (Vat.gr. 2306) and called the underlying work, after the subject of B, Fragmentum Vaticanum de eligendis magistratibus. It seems to have come from a lost work of Theophrastus, in fact his Laws, and to presuppose familiarity with Aristotle’s Politics and Constitutions. Aly’s edition contained text, diplomatic transcript, Latin translation, commentary and some photographs. Since Aly’s (reviewed by R. P. Oliver, CP 45 [1950] 117-19), the chief studies are those of F. Sbordone, “Le pergamene vaticane ‘De eligendis magistratibus’,” ParPass 3 (1948) 269-90; J. J. Keaney, “Theophrastus on Greek Judicial Procedure,” TAPA 104 (1974) 179-94; and J. J. Keaney and A. Szegedy-Maszak [hereafter, K/Sz], “Theophrastus’ De Eligendis Magistratibus: Vat. Gr. 2306, Fragment B,” TAPA 106 (1976) 227-40.1

The work has an extraordinary interest, as Aly pointed out and R. P. Oliver emphasized, not only for students of Greek institutions but for those of Roman as well. The cursus honorum, the trial in two phases, the senatorial commissions with members of differentiated

1 The identification of the author as Theophrastus goes back to Aly and is confirmed by Sbordone, who made an analysis of the vocabulary and noted the reflection of Aristotle’s Politics. R. P. Oliver pointed out the similarity to fr.97 Wimmer, which is from the Laws of Theophrastus, and D. M. Lewis (in J. Keaney, TAPA 104 [1974] 181 n.8) proposed recognizing the Vatican fragments as from the Laws. The arguments for Theophrastus are summarized by Keaney. One could always refuse to accept the authorship of Theophrastus because of the lack of direct attestation, for none of the previously known fragments coincides with any part of the Vatican fragments. On the other hand, no one has formally proposed a different authorship, and the importance of the Laws of Theophrastus, which W. S. Ferguson, Hellenistic Athens (London 1911) 40, called as epoch-making as the Politics of Aristotle, could easily have caused its survival to the sixth century, the date to which Aly assigned the hand. Aristotle, who is not here named even when contradicted or reworded, was vividly present in the mind of the author. This connection, the fact that no event later than the fourth century B.C. is mentioned and finally the style provide strong support for the identification of the author as Theophrastus, while B 98-101 strongly suggests that the subject of the work is how the conduct of community affairs can be improved by good laws.

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rank had their foundation in Greek political theory of the fourth century B.C.

The two folia A and B clearly contain parts of the same work, but it is not possible to say whether A precedes B or B precedes A, though Crönert (see Aly) and Sbordone thought that A followed B with the loss of only two columns between them. Any discussion will fall automatically into two sections corresponding to fragments A and B. There is no advantage in changing the order.

We here present, though without dots, an edition which incorporates changes of wording at A 20, 54–55, 64, B 40a, 54 (already anticipated by D. M. Lewis in K/Sz), 98, 113, 131, 179, 223, 224, 226, 240, 246–48, 249a, and changes in punctuation at A 65–73, B 8, 146–47, 235, 249. A new English translation is offered, and a new commentary which takes the discussions of the last thirty-four years into account and especially brings forward new considerations and corrections. Restorations and emendations, unless otherwise stated (as in commentary to A 54), are by Aly.

Text, Fragment A

[ἐὰν κατ' ἔξετα]–
Fol. A' [c]μόν, ὅπερ καὶ
col. iii διαίρησις ποι-
[εἴ] χρόνον ἄν ὅ ἐπ-
[γ]άδει, ἐκάκτουν
5 [ά]νακρίνη, καθά-
[π]ερ ἐν Δακεδαῖμο-
[ν] ἄν nοιοῦσιν·
[δ]ιό κρ<ε>ίπτον ἓως
[ά]τε <τὸ> ἀκριβές ζη-
10 τούντῃ πολλάς
άδικάστους ποι-
είν ἢ ἀνευ τῆς ἀ-
nακρίσεως δικά-
ζειν, ἐπεὶ καὶ τοῦ-

15 τὸ πλεονεξίαν
[τινὰ] ποιεῖ τοῖς
φιλονικοῦσιν,
ὅπερ φασὶ συμβαὶ-
νειν καὶ ἐν τῇ

20 Σπάρτη τοιγαρο[ό]ν
ἑκτάλη ἀνα-
κρίνουσιν οὔτως
καὶ ἀνακρίνατες
ἐκκαλοῦσιν τῇ

25 ὅρα τοὺς ἄλλους,
ὁ καὶ Κλεομένης
ἐποίησεν ὁ βα-
[κ]λεῦς ἐν τῇ

κρίσει τῇ ἐκ Κλε-

Whole words are seldom in doubt, though Aly had to dot many letters, likewise K/Sz.

For letters no longer visible square brackets are used; for those omitted by the scribe and supplied by the editor angle brackets are used; for letters deleted by the editor braces {} are used.
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30 ὀλαν. πάντα δὲ ταῤῥα τα εὐληπτέον
ei [. . . . . . .] μη τούς διδόντας (?)
AA[------]
[Ten lines missing]

Fol. A
ἡμέρας ἀκροά-
col. i εθαυ καθάπερ [ἐν]
Λακεδαιμονί-
καὶ τῷ πλήθει[ε]-
nι τῶν ψήφων[ν]
50 ὑπεραίρεων, ὧ[ε]-
περ ἐν Μεγάλῃ
πόλει περὶ τῶν
φθινχων. ἐν[ια]-
χοῦ δὲ καὶ ὑπο[τε]-

55 λοῦσιν τῷ κρι-
νομένῳ, καθά-
περ ἐν Λοκροῖς φα-
εἰ τοῖς Ἐπίζεφυ-
ρίοις. χρῆ δ' ἐν γ[ε]

60 τοῖς τοιούτοις ἐ-
ἐναι εἰς ἀφυχίαν
τε καὶ πάθος τὰ
πολλὰ τοῖς δράσα-
κιν, ὧσπερ ἐν τοῖς
<ἀρχαῖοις>

65 χρόνοις. καὶ δόκα
δὴ χρονιζόμε-
να μὲν βλάπτει
τὴν πολιτείαν,
ἐνίων δὲ καὶ ἀ-

70 ποφυγήν πολ-
λάκες ἀκροασμέ-
νον καὶ ἀνακρι-
νάτων ὄσιος,
ὑπεύθυνον πως

75 πάλιν ποιητέον,
ὡσπερ ἐν Λακε-
δαί[μοι]. διὰ βίο[ν]
δ[ὲ . . . ]ται πο[ρᾶ]
[------]

A 53 fortasse φθιν<οσωρ><ικών.  61 "ἐξ ἐκεὶ ευαί correctum esse videtur"
Aly.  64 ἀρχαῖοις supplevi.

TRANSLATION OF FRAGMENT A

Recto. [- - - if by examination], which an arbitrator also does, a
lengthy and laborious process, (the magistrate) interrogates each
(party), as they do in Lacedaemon. Wherefore, perhaps it is better
for them, inasmuch as they are seeking <the> whole and exact truth,
to leave many (cases) undecided than to decide them without the
examination, for to decide without examination gives a [certain]
unfair advantage to the contentious, and contentiousness, they say,
exists even at Sparta. Precisely to be fair they hold an examination
at once by (issuing) a peremptory order (to the parties), and having
made an examination, they call out the others when the trial season
comes. That is what Cleomenes the king did in the trial of Cleolas.
All these factors must be taken into account, unless [- - -]

Verso. [- - -] days to hear as in Lacedaemon, and it is possible for the
Assembly to override the votes, as at Megalopolis (to reverse decisions) on the cases heard at harvesttime. Sometimes they make payments to the one being tried, as at Epizephyrian Locri, they say. But in situations like this it is usually necessary (for the proceedings) to become discouraging and punishing for those who did wrong, as in the <olden> days. And while all affairs which are dragged out injure the polity, there are, on the other hand, some (situations in which an affair) must somehow again be made liable to scrutiny, as in Lacedaemon, even after they have listened many times up to an acquittal and investigated scrupulously. As long as they are alive [- - -]

**COMMENTARY ON FRAGMENT A**

Keaney argues convincingly that A does not concern the audit of magistrates. His argument is based on the word ἀνακρίνω (21–23), never used of the audit, and on the phrase τοῖς δράκαιν in A 63–64. He shows also that ἀνακρίσεις and εὐθύναι are not limited to magistrates, and that the difficulty of enough time was one fault in capital cases. But when he interprets the new word φθινοχῶν in A 53 as referring to capital cases, he does not convince the present writer. As if φθινω could mean 'be killed', he contends that this previously unknown word refers to cases with execution as a penalty. The photograph does not disprove the reading of a χι as the sixth letter of this word but does not support it either. Keaney, who personally checked Aly's reading, accepts the χι, though not explicitly. If the letter were καππα, the writer would assume an omission and emend to φθιν<σωρ>ικῶν. Cases heard in the autumn or waning summer would occur during the hectic harvesttime; they might be or include capital cases, but we could not build on any such assumption. Some judicial procedure, however, is indeed the subject of A, more specifically the desirability of a trial in two phases and the necessity of allowing sufficient time.

A 9–10: The phrase [α]τε <το> ἀκριβες ζητούντας Aly translates "verum quaerentes" and Keaney "in as much as it is accuracy which is being sought." These translations have the advantage of rendering the word ἀκριβες with a single English or Latin word. The etymology ἀκρ-+ ἐβω implied something like allowing the liquid to drip

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until the container or measuring cup was full to the top. That is, the Greek implies not only an accurate measure but full measure.

A 20: Sbordone (p.283) read τογαρο[υ]. The omicron, not seen by Aly and Keaney, appears clearly in the photograph, and so does the horizontal line indicating a final ιν.

A 21-22: Aly and Sbordone were misled by the word εκυτάλη as defined by late writers. There is no emphasis on secrecy; rather εκυτάλη refers to a peremptory order of a Spartan type to appear, as in Thuc. 1.131: πέμψαντες κήρυκα οἱ ἕφοροι καὶ εκυτάλην εἶπον τοῦ κήρυκος μὴ λείπεσθαι, εἰ δὲ μὴ, πόλεμον αὐτῶ Σπαρτιάτας προσαγορεύειν.

As for the examination, Keaney (n.29) compares the public arbitration procedure at Athens (Arist. Ath.Pol. 52, 2-3); he suspects “that the allusion in the text is to the inadmissibility of further evidence after the ephors have completed their investigation.” Questions at issue may have been delimited, as in the phase in iure of a Roman trial, where the praetor grants a formula and gives an order (for the judge whom the parties accept): si paret . . . condemnato, si non paret, absolvito. For the adverb οὐτως 'without delay', see LSJ s.v. iv.

In A 25 Aly and Keaney read ὁρς, Crönter and Sbordone ἀκρς, “al momento culminante.” “The others” are the witnesses.

In A 26 the reference to the unknown trial of Cleolas leaves uncertainty as to which Cleomenes is meant. The probabilities point to Cleomenes II, but, even so, 309 B.C., when Cleomenes died, need not be assumed as a terminus ante quem for the treatise.

A 32-34: Sbordone restores εἰ[κότως ᾧα] μὴ τοῦς διδόντας μ[όν]ον [ἀλλὰ καὶ - - , but the reading is very uncertain.

A 45, ἢμέρας: either singular ([ἐντὸς] ἦ.) or plural.

A 50-53: Nothing is known about this institution at Megalopolis, but it may be suggestive that cases were divided into εὐθεία δίκαι (see B. Helly, Gonnei II [Amsterdam 1973] nos. 78 and 90) and βόλωμοι δίκαι (Gonnei nos. 75, 77, 79 and 80). The former had to be tried without delay. The "φθινοχαῖ" may have been εὐθεία δίκαι which could be appealed to the People, priority cases heard perhaps in the autumn.

A 53-59: The main problem is the verb in lines 54-55. Aly read the first letters of line 55 as λουειν and with an emendation edited the verb as ὅτο[τ]ομε. Keaney interpreted this as a reference to fettering, which seems to have no connection with the subject of delays in judgements. The solution offered by Sbordone, who assumed the loss of two letters at the end of line 54 and read ὅτο[τ]ομε, seems
superior palaeographically and in subject. They made small pay-
ments to those whose trial dragged on or was postponed. They did
so to ease the strain. The photograph seems to support the assump-
tion of a loss of two letters at the end of line 54.

A 64–65: No modernisation is recommended in certain types of
cases. The phrase ὀπερ ἐν τοῖς χρόνοις, as Keaney rightly says, makes
no sense. Arist. Pol. 1303b20–21, οὖν εὐνέθη καὶ ἐν Συρακούσαις ἐν
toῖς ἀρχαίοις χρόνοις strongly suggests that the word ἀρχαίοις has
fallen out. The phrase τοῖς ἀρχαίοις χρόνοις occurs also at Pol. 1278a6
and 1305b20.

A 65–77: A new sentence begins with καὶ δὲα δῆ. Aly’s failure to
recognize this led to several misconceptions and to Sbordone’s un-
likely emendation καθ’ θ’, δὲα καὶ to Keaney’s proposal to delete the
particle μὲν in line 67. The μὲν of 67 and the δὲ of 69 are coordinate.
In 69–70 Keaney rejects the reading καν’ ἀποφυγήν, which made sense
to Aly and Sbordone, partly because the meaning ‘acquittal’ is not
elsewhere attested, but surely it can be carried over from the verb ἀποφεύγειν. The emendation καν’ ἀποφυγή[ν], which tempted Keaney,
would depart from the text without any clear gain. The comma which
Aly placed before ὡσὶν in A 73 might better follow the word.

A 77–78: If [δέξονται could be restored in line 78, the sense might be
that such cases could be reopened as long as the suspect(s) lived.

Text, Fragment B

 Fol. B°
col. i καὶ ἀπειρον εἶ-

5 πλὴν οὐκ ἀπὸ κα-
κίας. ἀλλὰ δὴλον

10 ἐκ τῶν βίων καὶ
τῆς ἀγωγῆς, ἀλλὰ
μὴ ἐκ τῆς οὐδὶ-

15 παίδ<ε>ία καὶ τὰ ἐ-
30 Ἰφικράτης καὶ Χα- 
βρίας ἐπιτηγή-
σαν <ἀν> οθὲν τοὺ-
των ἐπὶ πρότε-
ρον καὶ ἀμείνουσ.

35 Άριστ<ε>ίδης καὶ Θε-
μιστοκλῆς. φαί-
νεται δ' οὖν καθό-
λον τινὰ σκέψιν 
ἐχειν, τίνας δεῖ 
κατὰ πλοῦτον καὶ 
40 <ἀρετὴν> αἵρεσιθαυτή 
μάλλον κατ' > 
ἀρετὴν μόνον 
ἡ πλοῦτον. ἐν 
μὲν γὰρ τῇ ταμι-
είᾳ, καθάπερ εἰ-

col. ii ῥηταῖ, τὰς οὐσίας 
τρούσιν· εἰς δὲ 
νομοφυλακίαν 
ἡ τῶν τοιαύτης 
ἐτέραν δικαίο-

50 σύνης δεῖ. πρὸς 
δὲ επιτηγίαν 
καὶ τῶν ἔξω καὶ 
tῶν ἐν τῇ πόλει 
κυρία<ν> πρὸς τῇ α-

55 ρετῇ καὶ χρηγί-
αν ἔχειν ικανήν, 
ἐπὶ δὲ τρίτον, ὡς 
ἐιρήνην, τὴν ἐμ-
πείραν. καὶ ἐστὶ 

60 τρία ταῦτα περὶ τὰς 
<εἰς> λέων 
ἀρχὰς ἀρετῆς, κτῆ-

εἰς ἀρκοῦσα, φρο-
νησίς — τὸ γὰρ τῆς 
eυνοίας κοινών — 

65 ὥν τὰ μὲν δῶν 

[8] δὲ γὰρ πάσας, τὰ δὲ 
τῆς φρονήσε- 

70 τατον δ' ἐν ταῖς με-
γίσταις. καὶ ἀρκε[τ] 
γέ πως, εἰ ἀδόλως 
eἰς ἀμφό βλέ-
pουσι — ἀγαθὰ 

75 γὰρ ὡς ἐπὶ τὸ πολὺ 
τ' ἑπιδεῖν καὶ ἀρι-
cτ[α] δὴ καὶ ὅν 

80 τὴν εὐμορίαν 
καὶ τὴν ἰδίακε 

85 εἰνοί δὲ πρὸς θά-
tερα, ἀτούς ἀρι-
cτους γὰρ κρῖνο-
cων, οἱ δὲ πλεῖστοι 
καὶ χείριστα βου-

90 λεύμονοι πρὸς 
θές δέ, ὅπερ ἐλε-

95 χθὴ πρότερον, 

99 τητος, αἱ δὲ ἐπι-
μελ<ε>ίας καὶ ἰταμό-

tητος, ἃν ἑχθις-

100 τοῦ, οἷον πρὸς ἐ-
καστα νόμῳ μὲν 

<ν> δὲ δοκιμάζον-
tας αἴρεσθαι χρῆ 
τοὺς ἐπιτηδ<ε>ιο-
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105 τάτους. ἐπεὶ δὲ ἔνια, καθάπερ ἐλέχθη, καὶ ἐμπειρίας δέονται, πρὸς ταῦτα ὀρθῶς ζει—

110 χεὶ τὸ παραξεύ- γνύναι τινὸς ἀεὶ τῶν νεωτέρων, ὡποῖς παιδεύονται παρὰ τῶν εἰδό-

tων μηδὲν χεί- ρον διοικομέ- νων τῶν τῆς πόλεως, ὅπερ καὶ "Αγνων ποτὲ
cυνεβουλευεν Ὁθηναίωις ἐπ[ε]ὶ τῶν στρατηγῶν παραδείγματι χρη-

120 σέμενος τῷ πε— ρὶ τὰ κυνηγεία: καὶ γὰρ ἐκεῖ σκύ- λακας ἐφή παρεμ- βαλέων ἂει τοὺς φιλοκυνήγους.

125 χρῄσται δὲ καὶ νῦν ἔνια τῶν <ν>όμω τα- κτῶν ἐλαττόνων

Fol. B' col. i Καρυκτίων καὶ Κυ- θνίων. τρεῖς μὲν γὰρ ἐπὶ τῶν ἐστρα-

tηγικῶτων ἡδῆ, δύο δ' ἐκ τῶν νε- ωτέρων καθι—

130 χρῄσται. μάλιστα οὖν ἐν ταὐτῇ δεὶ μεγίστους ἀνή- κεῖν καρποῦς: οὖ

135 μὴν ἄλλα καὶ ἐὰν ἄλλη τοιαύτη εὐγ-

140 κατάμε<ν>κτος ἦ ὁ- μοίως, ταῖς ἥλι- 

145 κίαις λεγομέναις ἀμα κόσμον καὶ
tοῦ το γὰρ οὐ κακῶς

150 οἱ αἵρούμενοι δύο,
tὸν μὲν πρεβύ-

155 τέρου, τὸν δὲ νε-

160 ύτερου, ὡποῖς ὁ μὲν εὐταξίαν

165 παρέξη μεταδι-

170 δοῦς, ὁ δὲ αὐτὸς εὐναποδνόμε- νος ἤγεμὼν γ[ε]·

175 νηται τῶν πό- νων. ὥ γὰρ δίκαι—

180 ον ἄμφω ταῦτα τὴν αὐτὴν λατ[ρ]εί-

160 αἰθής[ε]ως χρη-

185 στής· ἄλλα δὲ πρό-

190 τέρου ἄλλας προ-

195 ἄρξαι τὸν μέλι—

190 λοντα τὰς μει-

200 ξους ἄρξεν, ὅπερ
col. ii καὶ ἐπὶ τῆς στρα-

tηγῆς[ε]ιας ἐλέξθη.

205 ἀτοπὸν γ[ὡ]ρ εἰ ὁ μὴ
tὰξιαρχῆς μὴ—

210 δὲ φυλαρχῆς
eὐθὺς εἶτα ἐστρα—
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tηρησε ταῖς μὲν νυ, col. iii τέρων. εἰ δὲ δὴ
ὡς ἐξοθεὶς, ἀναπεσ[i]-
185 πάρθενοι χρῆ πρότερον, ταῖς δὲ ὑπαρτα—δυοὺς ἔνεκα·
διαταθήσει τῶν προσδοκη-
190 σαντα ἔπτωκοιν τ' ἀ-
παρ[τ]ίθεναι καὶ φιλο-
tιμότερον πα[ρ]ἀ-
σκε[ν]ἄξει[π]ο[ν] π[ε]ι-
[τ]α διὰ τὰ[ξ]ε[θ]έ
195 τῶν μεικτῶν ἢ,
ὑπὲρ ἢν καὶ ἐν Ἡ-
περομ, διὰ τὴν μο-
νὴν τοῦτον δὲ
ἐκ τῶν ἀλαττό-
nων ἄρχων ἢ τῶν
ἐπὶ τὰς μεικτὰς
ἀφορμευθέων
196 κ[αὶ ἐν] νόμῳ ἐνια-
200 κα'θάπερ ἐν Φω-
ικεύσι· τοὺς γὰρ
στρατηγοῦς κα-
θιστάσει ἐκ [τῶν]
[περιλα]χῃκτῶν
205 κα[ὶ] τεταμεικό-
tων. ὁρθ' δ' ὅλως
οὐδένα ἄναρχον
206 [ἐ]ρχεῖν ἐως τὸν
ἀβουλευτον, ὡς-
περ ἐν Ἄμβρακα ἤ
χορηγ[ε] ἡ γὰρ ἔλ[ε]θαι
[τὸν ἔμπειρ[ία]ν
210 λαμβάνωτα τῶν
κεκοιμαμένων
220 ἀεὶ καὶ μετὰ νεω-
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τ' ἐξετάζειν οὔτε
touc ἄλλους τόν
κολάζειν, καὶ κα-
tapλήττεθαι
eautw τι εὐνει-
dōτα φλαύρον

B 54 κύρια Aly, κυρία[ν] Lewis. 113 παδεύ<ω>ν— Aly. 179 ΓΕΙ cod., γ<ἀρ> εἰ
supplevi. 224-26 πολλο[θ] [ά]παι[ξα]πάσιν ἄξιον ∆αν[τε]ι (?) Aly, πολλο[θ]

TRANSLATION OF FRAGMENT B

Recto. [- - -] and a general be inexperienced. The harm here is just
as great but not from vice. Well then, it is clear that we ought to
aim at both.

It is best when one wins trust from his life style and education
rather than from his property. His culture and the good record of his
public career bring that about. On the whole, the law (restricting
office to men) of the (specified) census ratings seems to be too old-
fashioned, because it would often keep out the true leaders. For
instance, neither Epaminondas nor Pelopidas nor, from Athens,
Iphicrates and Chabrias ⟨would⟩ have been generals, nor still earlier
than these and better, Aristides and Themistocles. Altogether then
it is a delicate question apparently who should ⟨be chosen⟩ on a basis
of wealth and ⟨excellence or more on a basis of⟩ excellence only, or
of wealth. For instance, in the post of treasurer, as has been said, they
retain the property qualifications. But for the guardianship of the
laws or some other such post justice is needed. For a magistracy that
has supreme control of things, both outside and inside the city, (the
candidate) must have sufficient means in addition to his personal
excellence. In third place, as has been said, (put) experience. In fact,
in connection with the (elective) offices there are these three (require-
ments)—for (we assume) that of goodwill in all (candidates)—moral
excellence, financial independence, judgement. Of these (qualifica-
tions) the two first are necessary to all offices. As for the advantages
of judgement, (this qualification) is a rather exceptional one in some
offices but is most imperatively necessary in the greatest offices. And
it suffices in a way if, since the (advantages of judgement) are good for
seeing what is right in the long run and are best for recognizing
alternative opportunities, they look honestly, with an eye to both,
(for a man) to elect [on account of] his good natural endowment and
his effectiveness. But while some (do look) for one or the other
because they choose among excellent citizens, the majority of very poor counsel (have their eyes on) the material assets.

It is true, as was said previously, that some offices particularly need a trustworthy man, others a man of judgement and eloquence, still others a man who takes pains and, even though it be very unlovable, is aggressive. The (voters) themselves, as they test the candidates, must choose those who are most suitable.

Since some offices, as was said, need also experienced men, for these offices it is right that some of the younger men on each occasion be included in the team in such a way that they will receive training from those who know without the city’s affairs being administered any the worse. That is what Hagnon once advised the Athenians in the case of the generals. He used the training of hunting dogs as a model; he said that hunting enthusiasts always put in young dogs among the rest. Even now some of the juristically organized lesser cities use (this method) like the Carystians and Cythnians. They appoint three from among those who have already been generals and two from the younger men. Certainly in this (post) very serious situations inevitably arise; nevertheless, if it is smoothly combined with another such (post), with the so-called ages working together there (ought to) be order and with the acmes (of physical and mental development) working together effectiveness, as in the gymnasiarchy. For they do well who elect two for this, the one rather old, the other rather young, so that the first provides good order with his participation, the other by stripping off his garment and joining in becomes a leader in the hard exercise. For it is not right that both perform the same service here, but both are in charge.

There is need of (bright men with) good perception, but one who is going to hold the more important offices ought first to hold other posts, as was said in the case of the generalship. (For) it is absurd when one who has never been taxiarch or phylarch has presently become general, for instance. As was agreed, he must be tried out in some offices ahead of time, in other offices last. For two reasons: by this arrangement (the city) puts the ambitious man on his mettle and makes him more eager for a test on account of the posts of greater importance, or, as was the case, by the way, in Epirus, on account of the permanence (in office). To take this man from the lesser posts or from those earmarked as stepping-stones to the more important posts (the city) is in some places required even by law, as among the
Phocians: they appoint their generals from the ex-phylarchs and ex-treasurers. In general, no one must hold office without previous experience in office, except as councillor as in Ambracia. In fact it is rewarding to elect on each occasion even among the younger men the kind of man who is receiving experience of public affairs.

If ever the polity depends upon him, then it is necessary that on each occasion one man for many (duties) all intermingled hold in cumulation the highest offices, as both in Argos, though not previously, and in Carthage to become king and to become general. (Not previously at Argos), for these were the offices from (whose ex-incumbents) their senate was enrolled.

Well anyhow, while they themselves are in office, along with it they perhaps have, [by a standing arrangement, honorary maintenance] as well; later on they will be fed in [sanctuaries]. This (is not proper and) one should try to overturn it. But it seems right that the [aforesaid man] have honor when he practices actions in conformity with justice and for holding himself above reproach in respect to public affairs.

As (candidates those) thirty years old who render a satisfactory account (of their status) will be accepted for whatever (posts) they continue to aim. For it is not permissible (to accept) one who is under investigation by the city, unable either to examine anything officially or to inflict punishment, and for him who is conscious of some defect (in his own position) to be afraid of the others [- - -]

**Commentary on Fragment B**

B 1–8: The fragment begins with a reference to the importance of experience, importance in third place, in the selection of a magistrate or officer. The example chosen is that of a general. Since the ἀρετή of a general certainly includes courage, its opposite (κακία = ‘ignavia’ Aly) is translated ‘cowardice’ by K/Sz. The absence of this ἀρετή, which includes more than courage, is a primary disqualification, but inexperience too can make a good man a bad general. The word ἀμφοῖν in line 7 seems to mean ‘excellence’ and ‘experience’, and if so, the subject ends in line 8, not in line 6.

B 8–18: Dropping inexperience, the author returns to the two first qualities which, he has said in a section now lost, recommend a candidate for public office. He advises the reader to put less faith in wealth as a sign of excellence, which should be distinguished from
wealth. The wealthy were often called the best citizens, or the good, substantial people (Cicero’s *boni et locupletes*), or the *χρηστοί*, and this terminology tended to obscure recognition of true excellence. The Old Oligarch, *Ath.Pol.* 2.19 says: “I claim that the *demos* of Athens know who are the *χρηστοί* of the citizens and who the *πονηροί*, and knowing them, they love those who are most suitable and useful to them. For they do not think that excellence in (the *χρηστοί*) has developed to their advantage but to their disadvantage.”

B 18–26: Aristotle’s second type of democracy (*Pol.* 4.1291b38–41) was τὸ τάς ἀρχὰς ἀπὸ τιμημάτων εἶναι. Theophrastus will not have it because it is too old-fashioned. Aly points to Plut. *Phocion* 27 on the regrettable reorganization of 322 B.C., when 12,000 Athenians lost their citizenship because of what purported to be the πάτριος διὰ τιμημάτων πολιτεία. In general see W. S. Ferguson, *Hellenistic Athens* (London 1911) 22–26, and for background A. Fuks, *The Ancestral Constitution* (London 1953), and E. Ruschenbusch, “Πάτριος Πολιτεία,” *Historia* 7 (1958) 398–424.

B 26–36: Phocion, who died in 318, is not mentioned among the poor men who served as generals. For Aly this was very significant. Aly infers that Phocion was still alive, or, more probably, was deliberately passed over because of his support for oligarchy.

B 40–41: R. P. Oliver assumes the loss of ἀρετὴν ἡ κατ’ between lines 40 and 41 and understands τίνας (ἀρχοντας) δεῖ (αἱρεῖσθαι) in line 40. Similarly Sbordone assumes the loss of ἡ κατ’ ἀρετὴν in line 41. It appears that the scribe’s eye leaped from one ἀρετὴν to a second, but since a lacuna is then beyond question, a lacuna of five words is not more difficult to assume than one of three words. Aly had already translated “quos creare debemus.”

B 42–56: The author, having just recognized that in respect to the necessity of excellence or wealth in the officeholder the public offices fell into three groups, gives one example from each group. On the *νομοφυλακία* (B 47) see now J. Aubonnet’s note in the Budé Aristotle, *Politique* II.2 (Paris 1973) 310f. This office, proposed by Plato and called by Arist. *Pol.* 1322b8 an aristocratic institution, would primarily require justice (= excellence), and the office of treasurer (traditionally) requires wealth (which in the small and observant world of the classical city made a man so vulnerable to a suit for recovery and penalties that both his responsibility and freedom from temptation could easily be assumed, but not in the Roman world). In an emer-
gency a treasurer might be expected to advance the money from his own estate. The supreme command, on the other hand, might be an example of an office requiring both wealth and excellence, but the author significantly substitutes "sufficient property" for wealth. Sufficient property, which assures financial independence, is less than wealth. The author dissociates himself from oligarchic theory. He is also correcting Arist. Pol. 1309b4-6, έν στρατηγία μὲν one should look εἰς τὴν ἐμπειρίαν μᾶλλον τῆς ἀρετῆς, ἐν δὲ φυλακῇ καὶ ταμιεύα τάναντία.

The main interest of this passage, however, lies in the use of the word στρατηγίαν for the highest post in the city, the supreme command both at home and abroad, and if one asks himself what post at Athens could be described in this way, it would indeed have to be that of the hoplite general. Sbordone (p.276 n.1) gave the correct reference, Arist. Ath.Pol. 61, but without noting the implications. At Athens, the most important city, the archonship had once been the supreme post (Arist. Ath.Pol. 13, 10-12) and had remained the eponymous office even when stripped of power, but a single generalship of this type could not have existed at Athens until sometime after the Battle of Chaeronea (so rightly Th. Chr. Sarikakis, The Hoplite General [Diss. Princeton 1951] 12-14). Since Sarikakis placed the creation of the supreme hoplite generalship before 322/1 (last possible date for Ath.Pol. 61), he was puzzled to find that the next earliest reference supposedly occurred in an inscription, IG II² 682, of the third century B.C. For he overlooked the Theophrastean fragment or discounted it as not specific enough evidence for Athens.

B 59-71: After discussing the relative importance of different requirements for different offices, the author reaffirms clearly the basic requirements for elective office, namely excellence, financial independence (basic in the ancient city where no salary was attached to high public office), and in third place judgement by way of experience. This is the essence of his thesis, and the comment εἶτα = nota bene appears in the margin. For a marginal comment introduced by εἶτα see PSI XIV 1449 (Ulpian, Ad edictum).

It was Sbordone (p.286) who pointed out that in B 59-81 the author has Arist. Pol. 1309a32ff in mind. Aristotle says:

There are three qualities which those who are going to occupy the chief offices must have; first, loyalty (φιλία) to the established con-

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5 The term is already evolving toward the usage of Modestinus in Digest XXVII 1.6.14 and 1.15.9.
stitution; next, a very great ability (δύναμις) to perform the tasks of the office; third, excellence (ἀρετή) and justice (δικαιοσύνη) of the kind required in each form of constitution.

The author of the Vatican fragments places excellence first, then sufficient property (one meaning of δύναμις was capability in the sense of enough wealth to permit leisure), and in third place judgement (also included in Aristotle's broad term δύναμις). Theophrastus retains a tricolon by breaking up δύναμις into two very different types of ability and by eliminating φιλία, which he replaces with another word, εὔνοια, and puts aside. With the adjective κοινόν of B 64 compare Arist. Pol. 1309b8, ἦ δὲ ἐπιστήμη κοινή πάσιν. Since Theophrastus unlike Aristotle is not differentiating one constitution from another (as K/Sz emphasize), φιλία is no longer the right word. The εὔνοια is that toward the citizens or the city as a whole, as in third century decrees like IG II² 682, lines 21 and 60, and IG II² 1299, line 14.

B 71-81, καὶ ἀρκε[τ] γέ πως, εἰ ἀδόλως εἰς ἀμφω βλέπουσι ... ὡς ἀνεῖθα διὰ τὴν εὐμορίαν καὶ τὴν δύναμιν. One notes a similar expression in Arist. Pol. 1273a29, αἵρονται γάρ (the Carthaginians) εἰς δύο ταύτα βλέποντες (wealth and ἀρετή) καὶ μάλιστα τὰς μεγίστας, τοὺς τε βασιλείας καὶ τοὺς στρατηγοὺς. But it is also true that, as Sbordone (p.286) noted, the author has Arist. Pol. 1309b3, ἑοικὴ δὲ δεῖν βλέπειν εἰς δύο, in mind. Aristotle had just said, “The difficulty arises when all three qualities are not united in one man and you have to choose; it is then necessary to look for what quality all have to a larger extent and what to a lesser extent.” For the generalship, experience, being rare, means more than ἀρετή, but it is the other way around ἐν φυλακῇ καὶ ταμείᾳ. So here, if you have to choose, you settle for what seems more important (rare) in this particular office.

The problem here is to identify what is meant by ἀμφω. Sbordone (p.276) assumes that the author refers to the ἀρετή and κτήσεις of lines 61-62. A difficulty lies in the neuter plural of the γάρ clause which follows βλέπουσι. One alternative (ours, see below) is to identify ἀμφω with the two qualities εὐμορία and δύναμις in the same sentence after the γάρ clause, which interrupts. Another alternative is to identify ἀμφω with ἀρετή and φρόνησις of lines 61–63. The author as a stylist lacks clarity of presentation.

The γάρ clause of lines 74–78: ἀγαθὰ γὰρ ὡς ἐπὶ τὸ πολὺ τ’ ἐπιδεῖν καὶ ἀριστα δὴ καὶ οὖν γνώναι παρ’ ἄλλο[ν]. The first and main problem
is the neuter plural. As he composed this clause, the author was not thinking in terms of two feminine nouns (ἀρετή and κτήσεις), as Sbordone claims, but of the neuter plural in lines 66-68, τὰ τής φρονήσεως. Surely his mind dwelt here on the appreciation of Themistocles given by Thuc. 1.138.3 because he had just expressed admiration for Themistocles in lines 34-36. For any Greek of the end of the fourth century Themistocles was the great example of φρόνησις in a statesman. Finally, whereas Aly restored παρ’ ἄλλον [ν] and translated “praeter ceteros,” and Sbordone would read παρ’ ἄλλο and translated “più che altro,” we refer the reader to LSJ s.v. παρά I 7 for our interpretation “alternate opportunities.”

B 80–81, τὴν εὐμορφίαν καὶ τὴν δύναμιν. These qualities equal or subsume τὰ τῆς φρονήσεως. They imply the οἰκεία ξύνεις and the φύσεως δύναμις of a Themistocles (Thuc. 1.138.3) rather than the ἀρετή of an ideal even for political life.

B 85–88: Unlike those who look for candidates of personal excellence, the majority of voters, being men of poor discernment, prefer candidates recommended by their property. This would be true in cities controlled by oligarchs with dependent followers, also in other cities with many citizens looking for entertainment and food from wealthy officeholders, but the author seems to have in mind primarily the confusion between true excellence and the misleading terminology (βέλτιστοι) discussed above in connection with B 8–18, the tendency to use wealth as a test of good, substantial citizens.

B 97–98: Sbordone correctly read ἐχθιστὸν for Aly’s ἐχθιστος.

B 113: Future indicative rather than subjunctive, to stress modality rather than finality.

B 118–29: H. C. Avery, “Lysias 12.65,” CP 61 (1966) 257–58, attributes Hagnon’s speech not to 419 B.C. (so Aly) but to 413, when Hagnon was one of the probouloi.

B 131, τῶν ἐνὸς τακτῶν (Sbordone), not τῶν ὀμοῖοι τάκτων (Aly and K/Sz): compare Arist. Pol. 5.1306b20, τῶν ἐνόμων δημοκρατῶν καὶ ὀλιγαρχῶν. Omissions are frequent, occurring in A 3, 9, 64, B 32, 40a, 54, 179, 205, 249a. Not a single case of confusion between omega and omicron occurs.

B 135–40, “They appoint three from those who are already ex-generals and two from the younger men.” The best comparisons are with Roman commissions such as that of the SC de pecunis repetundis
(R. K. Sherk, Roman Documents no.31; Ehrenberg/Jones, Documents no.311) lines 107–12, and Tac. Ann. 3.28, quinque consularium, quinque e praetoriiis, totidem e cetero senatu.

B 140–53: Aly’s translation suffers from basic misunderstandings. In B 146–47 the comma should follow, not precede, ὅμως, which, meaning “in a more or less equal fashion,” goes with κατὰμεικτος. Sbordone, who edits ἄλλη τοιαύτη for Aly’s ἄλλη τοιαύτη, translates: “Soprattutto in questa (magistratura) possono verificarsi le situazioni più gravi, per quanto la coesistenza del prestigio con le età menzionate (mature, se non erro), e quella del vigore con la giovinezza possa aver luogo anche quando un’altra carica congenere risulti mista, e l’esempio è dato dalla ginnasiarchia.” Sbordone is right in his interpretation of the phrase ἐν ταύτη in B 141, which Aly translated “in hac civitate,” and (unlike Aly) he may be right also in his interpretation of the phrase μεγίστους ... καιροῦς in B 142–43, referring the reader to Xen. Hell. 6.5.33. But he has mistakenly followed Aly’s “aetatibus supra indicatis(?)” for ταῖς ἡλικίαις λεγομέναις (B 147–48) with a translation that presupposes a past participle. He seems, moreover, to have misinterpreted ὃ μὴν ἄλλα in B 143–44 (cf. J. D. Denniston, The Greek Particles [Oxford 1934] 28–30). After ὃ μὴν ἄλλα there must be a verb on which the infinitive τὰρχειν of B 151 depends. If the verb has not been lost by omission, it may lie in the λεγομέν in B 148 or be understood as a repetition of the δεί of B 141. Since to read λέγομεν in B 148 would leave us with other problems (not so much a vestige aic to explain as a stylistically unlikely verb of the first person), we assume that a verb δεί is understood. Accepting λεγομέναις as the reading, we infer that “the so-called ages” is a reference to the division of troops into seniores and iuniores in military systems with only two age groups, because ἡλικία by itself does not mean ‘maturity’. The same division was often imitated in social clubs and gymnasia. The cooperation of an older and a younger man is interpreted by Theophrastus as assuring the advantages of both and minimizing the weakness of either. K/Sz identify the two as gymnasiarch and hypogymnasiarch. The acme of the body is between 29 and 35, that of the mind begins at 49 (Arist. Pol. 1390b9).

B 179, ἄτοπον γ’ ᾧ(ἀρ) εἶ: Aly read ἄτοπον γ’ εἶ, κτλ., but the sentence needs a connective. Compare Theophr. fr.97, 5 (Wimmer), ἄτοπον γῦρ ἐάν...

B 183–87: At Rome the cursus honorum, connected with the lex
Villia (180 B.C.) and the lex Cornelia de magistratibus (81 B.C.), clearly had precedents in Greek practice and political theory, as Aly noted.

V 203–04: καὶ ἐν νόμῳ ἐνὶο[χ]οῦ δ[ε] ὀν[η]θετῆνει Aly, νόμῳ... δ[ε] ἐξε[λέθαυ] Sbordone. The latter translates “scegliere in base alla lege” and thinks that the candidates would not need to be prodded by a law.

V 229: The restoration of the particle γε instead of Aly’s τ’ is suggested by A 59–60, γε τοις τοιουτοις.


V 233–35: Theophrastus would have used the form gerousia like Arist. Pol. 1272b27 and the present tense, if, as previous commentators thought, he had been speaking of Carthage. He refers to Argos, because he uses the Doric form gerontia. The gerontia of Argos was, I presume, the corporation known as the Eighty, on which M. Wörrel, Untersuchungen zur Verfassungsgeschichte von Argos im 5. Jahrhundert vor Christus (Munich 1964) 56–61, has collected and discussed the previously known information. That it consisted of ex-magistrates was merely suspected.

V 235–43: Our text differs from Aly’s and Sbordone’s by the substitution of τά[ξει] for τά [νόν] in B 240, partly because the phrase αὐτοὶ μὲν (and not a phrase in B 240, where the reference, I think, is to an arrangement in the διάπαξις or budget) contrasts with ἐπὶ δέ. The interpretation of the passage hinges also on whether the subject is Argive or Carthaginian practice, or common. If the author is speaking of a new Argive practice, an “allusion to the nocturnal meetings (ἐνεκτία) of the Carthaginian Council in the Temple of Eshmûn, whence was exerted a tyrannical control over the entire state” (R. P. Oliver tentatively), may be ruled out. Because of the Doric form gerontia above in V 234–35 and because Aristotle’s criticism of the Carthaginian constitution, φαύλον τὸ τάς μεγίστας ύπητὰς εἶναι τῶν ἄρχων, τὴν τε βασιλείαν καὶ τὴν στρατηγίαν (Pol. 1273a36–37), was so very different, it seems easier to associate the criticism from Theophrastus with Argos, but the word τάχα suggests that he was speaking in generalities. Sbordone, however, though he associated the criticism with Carthage, was right in contrasting Pol. 1273a32–35, where Aristotle prefers state support not only when men are in
office but afterwards in private life. Arist. Pol. 1273b6–7 commented that it was better, even if the lawmaker suffered the poverty of the good, to provide for their leisure at least when they were in office (ἀρχόντων γε ἐπιμελεῖται τῆς εὐσκολίης). Theophrastus will have it only when they are in office, if at all. The common meals of the Athenian prytaneis and the ἀεικτιὰ of officials who were entitled to food at public expense are worth notice in connection with this theme. The ἄδεικτοι are mentioned in Athenian citations of the first half of the third century B.C. (Meritt-Traill, Agora XV nos. 85 and 86) and in prytany decrees from the second half of the third century B.C. on, while lists of ἄδεικτοι officials regularly accompanied Athenian prytany catalogues of the Roman Period.

B 244–49: Aly worked out lines 244, 245 and 248, and from this start Sbordone recovered the wording of lines 246 and 247. The statement reflects an antithesis between honor and material rewards (cf. H. W. Pleket, “Games, Prizes, Athletes and Ideology,” Arena 1 [1976] 49–89). The honor earned at the time should be enough without expecting to be fed in a sanctuary later. The word ἑπιθέμετα, read by Sbordone, is new but regular in formation.

B 249–53, ὡς ἀρχήν μετίοντες οἱ λόγον ἀποδιδόντες τριακονταετεῖς δεχθῆκαται: The supplement ἀρχήν μετίοντες οἱ to accompany λόγον ἀποδιδόντες is suggested by the pair of infinitives in Plut. Crassus 7, εὐπαραγγέλλειν καὶ εὐνεκτέξεις οἱ ἀπὸς δειμένεις τι τοῦ δήμου. In his excellent study, “Principe d’ancienneté dans le monde hellénique,” MémAcinscr 43.2 (1951) 123–227, P. Roussel comments on p.165: “Si mal instruits que nous soyons de la constitution de la plupart des États grecs, nous avons constaté, d’après des faits précis, une tendance à retarder au moins jusqu’à trente ans l’entrée dans la vie publique.” Whereas Sbordone (p.280), connecting the passage with what preceded, translated, “di guisa che, dato conto del proprio passato, in età di trent’ anni possano (uomini siffatti) trovare adito a quelle cariche a cui vadano aspirando,” the future tense makes it more natural to assume the start of a new paragraph on the age requirement, for which Roussel has collected abundant evidence from inscriptions and authors, though not from the newly published Theophrastus, or on legal requirements in general. On the thirty years requirement see also L. and J. Robert, JSav 1976, 196.

B 260–64 may have been followed by a phrase like εἰκός ἔστι.