

DEMETRIOS OF PHALERON AND HIS LAWGIVING

I. BACKGROUND

Demetrios of Phaleron was bred in the main tradition of Athenian ethical and political philosophy. Socrates, Plato, Aristotle, Theophrastos: that was his pedigree. Though not as great as his own teacher and friend Theophrastos, Demetrios was a worthy pupil, talented, extremely productive, and varied in his scholarly interests.¹ Had he done nothing but write the books which he wrote, he would have reflected credit on the Peripatos. He did not, however, confine himself to a contemplative life; and in the world of action he surpassed his teachers. Their record in actual contemporary politics notoriously, and perhaps naturally, adds up to very little. Socrates set an example or two of rectitude in action, and otherwise abstained from politics. Plato ineffectually and Aristotle perhaps more importantly exerted some influence, outside Athens, through pupils and friends. Theophrastos, so far as we know, merely administered the school. These philosophers are remembered mostly for their philosophy. Demetrios ruled Athens. In all antiquity he was the most accomplished philosopher actually to rule a state.

A second reason why Demetrios should be taken seriously as a ruling political philosopher is the resources behind him. Theophrastos had made a collection of laws

NOTE. In the course of preparing a paper in the School at Athens in 1933, Mr. Richard Bacon asked Mr. Dow his opinion about the restoration of *I.G.*, II², 1201, line 11. It was impossible at that time to prepare a study of what had seemed at once (rightly or wrongly) to be the inevitable restoration. The problem was assigned to Mr. Travis in a course in epigraphy given at Harvard in 1936. When he arrived independently at the same result, collaboration was agreed upon, and a first draft was prepared. Since that time, several revisions have enabled us to take advantage of various recent publications, especially *Athenian Studies in Honor of W. S. Ferguson* (*Harv. Stud. Class. Philol.*, Suppl. I, 1940), which contains Dr. H. Bloch's related paper on the *Nomoi* of Theophrastos (pp. 355-376). We shall refer to W. S. Ferguson, *Hellenistic Athens* (London: Macmillan, 1911) as *H.A.* Professor Ferguson has offered helpful suggestions. To Dr. Bloch we owe much in Part IV. We are grateful also to Professor Stanley B. Smith of Bowdoin College for the photograph of the stone, and to Dr. John H. Young, then Norton Fellow of Harvard University, for a squeeze and description of the Eleusis base. The works mentioned in the footnotes will make other studies accessible. D. Cohen, "De Demetrio Phalereo," *Mnemosyne*, LIV, 1926, pp. 88-98 ("continuabitur"), is summary.

¹ Demetrios a pupil of Theophrastos: Diog. Laert., V, 39 and 75; Cicero, *De off.*, I, 1; *De fin.*, V, 19, 54; *Brutus*, 9, 37; and probably of Aristotle also: W. S. Ferguson, *Klio*, XI, 1911, p. 268. Demetrios one of the most "productive" Peripatetics of his day: Diog. Laert., V, 80. Variety of interests: *ibid.* (titles of his works). The most learned of the ten orators in the Attic canon: Cicero, *Brutus*, 37; cf. *De orat.*, I, 95; *De rep.*, II, 1.

and had written a work, *Νόμοι*,² which “was as epoch-making as that of Aristotle on Politics.”³ Our understanding and appreciation of the *Laws* of Theophrastos has recently been enlarged and deepened.⁴ The entire resources of the best century of Greek political thinking, and a vast collection of materials on comparative law and institutions, were available to Demetrios, not only through his own education and researches—Demetrios’ own works (*infra*, p. 154) prove this—but also through the presence of Theophrastos. Theophrastos was in Athens during the entire decade of Demetrios’ rule, and we know that Demetrios set Theophrastos up as a citizen and land-owner, providing the school with a plant of its own.⁵ It is altogether probable that Theophrastos had a considerable share in drawing up the code which Demetrios promulgated. The code of Demetrios “was based particularly on the investigations of his teacher.”⁶

The best account of Demetrios will be found in Chapter II of Ferguson’s *Hellenistic Athens*. Since that chapter was written, the number of extant inscriptions bearing on the date of Demetrios’ code has doubled, and the new texts definitely confirm Ferguson’s original observations and date (*infra*, pp. 159-165). Knowledge of how to deal with inscriptions has also increased. Historians have been misled, we believe, by epigraphists in regard to the title of Demetrios as lawgiver. The evidence, properly construed, seems to us to favor the notion that he chose the correct title (*infra*, pp. 153-156).

II. THE ELEUSIS BASE AND THE GENERALSIPS

The inscription *I.G.*, II², 2971 is currently dated in such a way as to make Demetrios necessarily a *στρατηγός* in the very years when, as we shall see, he was composing the code (317/6-316/5 B.C.).⁷ If this is correct, the problem of what title

² On the title, see Bloch, *loc. cit.*, p. 357, note 4.

³ Ferguson, *H.A.*, p. 40.

⁴ Bloch, *loc. cit.*, pp. 355-376.

⁵ Ferguson, *H.A.*, p. 60.

⁶ Ferguson, *H.A.*, p. 40; *Klio*, XI, 1911, p. 268. From Aristotle Demetrios got the idea of *nomophylakes*, *gynaikonomoi*, and the abolition of agonistic liturgies (*H.A.*, pp. 44, 45, 57). Demetrios failed to follow Theophrastos’ prescription that all transfers of real property should be registered with the state (*H.A.*, p. 43), but even from what is known of Theophrastos’ *Νόμοι* and Demetrios’ code, many close connections can be made out (Ferguson, *Klio*, XI, 1911, p. 270). In fact the tradition behind many laws of Demetrios can be traced back through the philosophers (or directly) to Solon.

⁷ The common opinion is that Demetrios was general during many of the years 318/7-308/7. A. Krause, *Attische Strategenlisten* (diss. Jena, pub. Weimar, 1914) enters Demetrios under the years 318/7-315/4 (p. 23), but his commentary is cautious (p. 60). W. W. Tarn, *Camb. Anc. Hist.*, VI (1933), p. 496: “He himself regularly held the office of general till 309.” (G. Glotz), P. Roussel, (R. Cohen), *Histoire grecque*, IV, 1 (1938), p. 326, says that Demetrios was “officially [in Athens] strategos.” For the similar view of Heuss, *infra*, p. 152, note 26. In one year, 308/7, later than the period involved primarily in the present study, Demetrios was certainly a general (Polyaenus, IV, 7, 6).

he bore as lawgiver is virtually settled: the title was *στρατηγός*. If it is not correct, the title might still have been *στρατηγός*, but other terms must also be considered.

I.G., II², 2971

Not stoichedon

in fronte:

Ἀθηναίων οἱ τεταγμένοι ὑπὸ τοῦ δήμου
ἐν Ἐλευσίνι καὶ Πανάκτῳ καὶ ἐπὶ Φυλῇ τὸν
στρατηγὸν Δημήτριον Φανοστράτου Φαληρέα
στεφανώσαντες Δήμητρι καὶ Κόρει ἀνέθηκαν.

in coronis:

5 Ἀθηναίων	Ἀθηναίων	Ἀθηναίων	ἡ βουλὴ
οἱ τεταγμέ	οἱ τεταγμέ	οἱ τετα	ὁ δῆμος
νοι Ἐλευσίνι	10 νοι ἐμ Πα	γμένοι	ἱππαρχή
	νάκτῳ	15 ἐπὶ Φυλεῖ	σαντα
20 ἡ βουλὴ	ἡ βουλὴ	ἡ βουλὴ	οἱ ἱππεῖς
ὁ δῆμος	25 ὁ δῆμος	ὁ δῆμος	ἱππαρ
στρατη	στρατη	30 στρατη	χίσαντα
γῆσαντα	γῆσαντα	γῆσαντα	

Σωσίθεος Ἀθηναῖος ἐποίησε

in latere sinistro:

in latere dextro:

35 Παναθή	Ἐλευσί	40 Δήλια	Ἑρμαῖα
ναια τὰ μεγά	νοι	ἄρματι	ἄρματι
λα ἄρματι			

The inscription is cut on a base at Eleusis which once bore a statue of Demetrios. Every letter is preserved. It tells us that as general Demetrios has been crowned once each by the garrisons in Eleusis, Panakton, and Phyle, and three times by the Boule and Demos. Possibly this means that the statue and base were erected toward the end of a fourth year as general.⁸ More likely the correct number is three, but the exact figure is immaterial.⁹

The base also records a victory in the Delia. Athens lost Delos in 314 B.C., and it has commonly been supposed that in their bitterness the Athenians thereafter omitted mention of festivals held in Delos; hence the generalships would necessarily fall in

⁸ On the supposition that the garrisons would crown a general during his year of office, the Boule and Demos only after its expiration. Otherwise only three terms need be represented. Hitherto the number has universally been taken to be four.

⁹ The Boule and Demos had crowned him also as hipparchos (lines 16-19), as had the cavalry (lines 32-34). No one has claimed, though it is possible theoretically, that these two awards were for different terms.

the three years, 317/6-315/4, immediately preceding the loss of Delos.¹⁰ The assumptions underlying this reasoning apparently have never been examined. The contention is simply that the revolt of Delos distressed the Athenians (which is doubtless true); that in their distress any mention of a Delian festival was repugnant (which is a different and more doubtful assumption); and further, that they would go so far as to omit mention of a victory by an Athenian at the Delia, thus in effect depriving him of an agonistic crown, though he had only two others (an assumption which seems to us quite improbable).¹¹

In view of the report that 360 statues of Demetrios were set up,¹² it has also been assumed that the whole series of some 360 statues, or at least the preserved base, was set up in the period of Demetrios' rule, 318/7-308/7, and that the preserved base records nothing but honors granted in that period. Our first positive report about Demetrios is that he began his political career in 325/4.¹³ The year when he was hipparchos was doubtless not long before 325/4, since he was still young in 317. In 323/2, already prominent, he was sent as one of the ambassadors to Antipater and Krateros,¹⁴ and in 318 a death sentence by the democrats¹⁵ again attests his promi-

¹⁰ W. S. Ferguson, *J.H.S.*, XXX, 1910, pp. 192, 208.

¹¹ In any case, the Athenians did not feel so strongly in the matter that they troubled to excise mention of the Delia on the base. The names of festivals *could* be excised: for example, *I.G.*, VII, 47 (Megara). Delos was lost to Athens with the remainder of the empire in 405, but the great Athenian sacrificial calendar which was part of the revised code completed in 401 contained specifications of sacrifices to be offered in Delos (S. Dow, forthcoming publication).

E. Bickerman, "Sur les batailles navales de Cos et d'Andros," *Rev. ét. anc.*, XL, 1938, p. 373, states: "La concurrence politique n'empêchait pas, en général, de cultiver les relations d'ordre religieux." His instances prove that such split relationships did exist, whether "en général" or not. One instance bears directly on the point at hand: "Pourtant, même les Athéniens, qui avaient administré eux-mêmes le temple d'Apollon pendant leur domination à Délos, n'ont pas osé se détourner du dieu quand 'l'île la plus sainte' se fut affranchie de leur tutelle. Le vaisseau de fête qu'équipent les fils de Cécrops continuait d'aborder annuellement le rivage de Délos indépendante" (references in his footnote). The other instances support the general proposition, except perhaps that involving the troublesome problem of the Delphic Soteria of the 240's (cf. G. Daux, "Athènes et Delphes," *H.S.C.P.*, Suppl. I, 1940, p. 52).

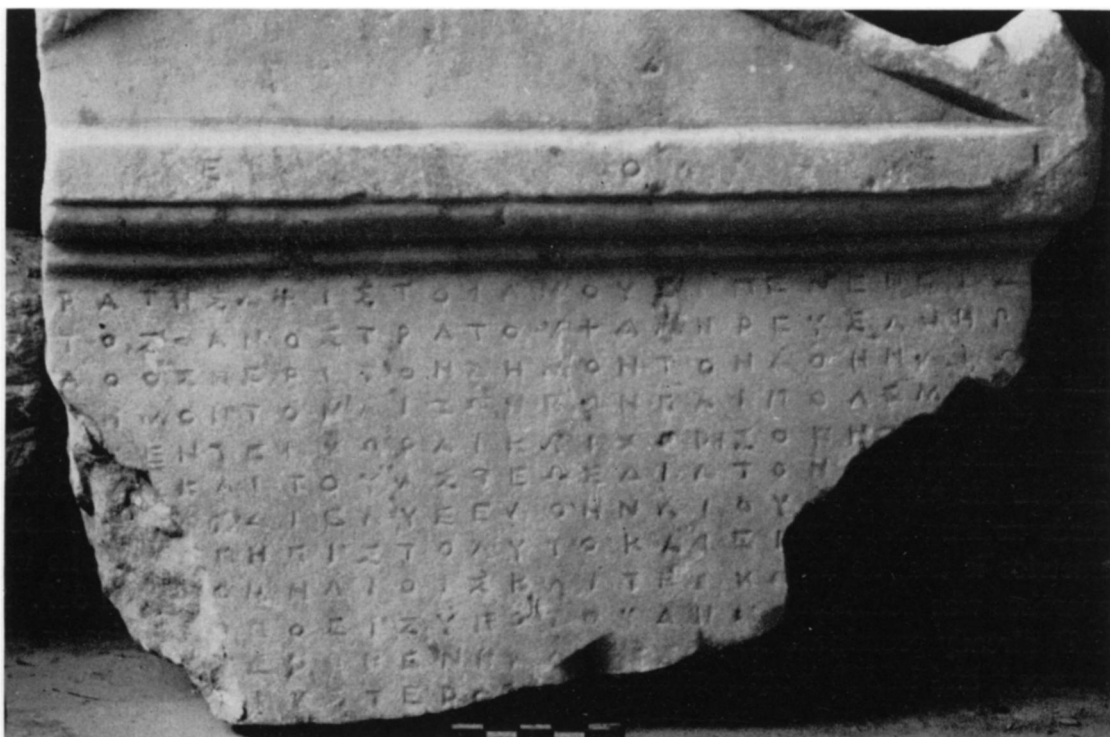
Within about a generation after they had lost their prosperity to the Athenians, the Rhodians could nevertheless crown an Athenian athlete (*Hesperia*, IV, 1935, p. 87). Whether Demetrios, regent of Athens, could have, or would have, competed in Delos soon after 314 B.C. is, we admit, another question. We think not: such an action would have political and perhaps military aspects.

¹² Strabo, IX, 1, 20 (398); Plut., *Πολιτικά παραγγέλματα* (*Prae. ger. reip.*), 27 (820 E): Diog. Laert., V, 5, 1. The actual number of statues set up was doubtless far less than 360. Even admitting a general destruction of them in 307/6 (which the Eleusis base escaped completely and alone), we should have fragments of more, if there had been anything like 360. There is no reason to doubt that they were numerous, perhaps several dozen. For Hadrian about 100 inscriptions, mostly bases, are preserved (*Gnomon*, XI, 1935, p. 636).

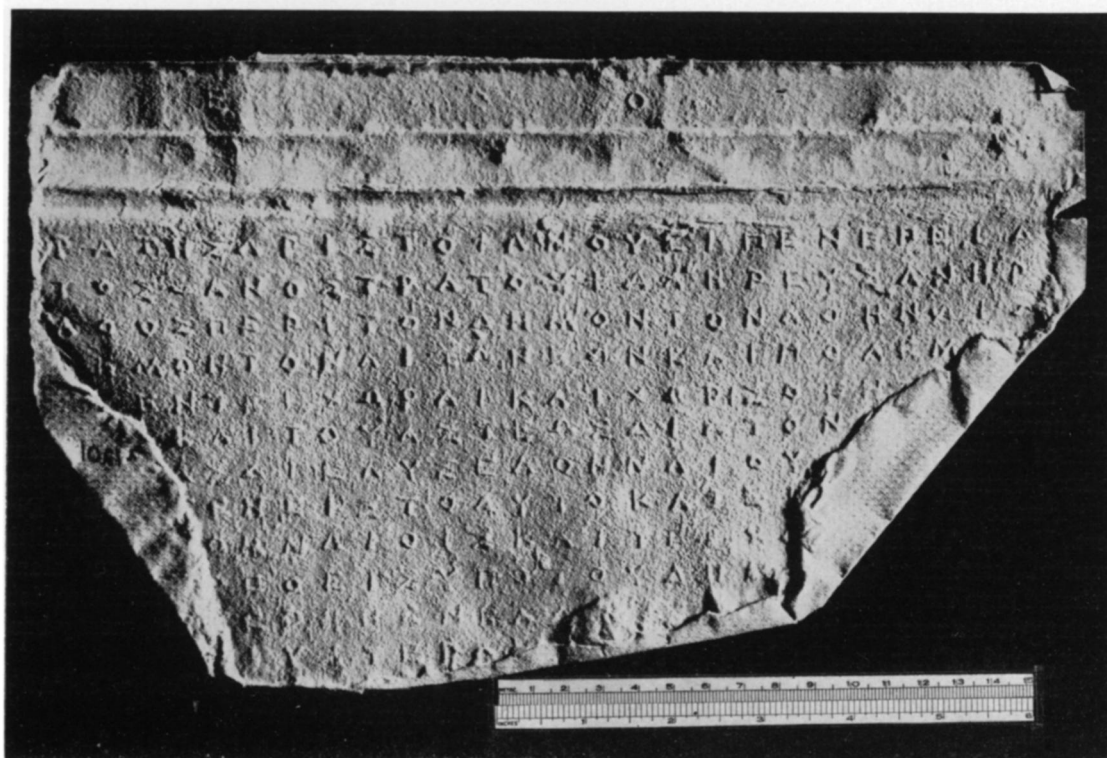
¹³ Diog. Laert., V, 75: ἀρξασθαι δ' αὐτὸν τῆς πολιτείας --- ὁπότε φυγὼν Ἀλέξανδρον εἰς Ἀθήνας ἦκεν Ἀρπαλος. For the date, *Cambr. Anc. Hist.*, VI, p. 450 note and references.

¹⁴ Demetrios, *Περὶ Ἑρμηνείας*, 289.

¹⁵ Plut., *Phoc.*, 35; Nepos, *Phoc.*, 3-4.



a



b

Fig. 1. The Decree from Aixone, *I.G.*, II², 1201 (a) with a Photograph from the Squeeze, Reversed (b)

nence. In short, he was one of the leaders of Athens, and consequently was doubtless a general,¹⁶ in all or most of the seven years 325/4-319/8. Obviously the base records all the crowns, military, agonistic, and civil, won by him down to the date of the inscribing. It is highly improbable that Demetrios received no crown between the award for his conduct of a hipparchia in some year before 323/2 and the crown for a (hypothetical but probable) generalship in 318/7. Whether or not the statue was actually set up *early* in his ten-year period of rule is immaterial. That it was not set up *late* in that period is proved by the comparatively small number of crowns: a man who could be reputed later to have received 360 statues would receive more than three crowns from the Boule and Demos.

In sum, the base *I.G.*, II², 2971 does not establish what office or offices Demetrios held either in 317/6 or in 316/5. His title as lawgiver may still have been *στρατηγός*, but the Eleusis base offers no proof one way or the other.

III. FORMER RESTORATIONS IN THE DECREE OF AIXONE

The title which Demetrios bore as lawgiver was once authoritatively given in a decree of the deme of Aixone in honor of Demetrios (Fig. 1). The beginning of this decree is somewhat mutilated, but the stoichedon order provides a control over restorations.¹⁷

I.G., II², 1201

Stoichedon 33

	[Θ]	ε	ο	ί
	[Ἀριστοκ]ράτης Ἀριστοφάνου εἶπεν· ἐπειδ			
	[ἡ Δημήτρ]ιος Φανοστράτου Φαληρεὺς ἀνὴρ			
	[ἔστιν ἀγ]αθὸς περὶ τὸν δῆμον τὸν Ἀθηναίω			
5	[ν καὶ τὸν δ]ῆμον τὸν Αἰξωνέων καὶ πολέμ[ου]			
	[γενομένο]ν ἐν τεῖ χώραι καὶ χωρισθέντ[ων τ]			
	[οὔ Πειραιώ]ς καὶ τοῦ ἄσπεως διὰ τὸν [πόλεμ]			
	[ον πρεσβεύσ]ας διέλυσε Ἀθηναίου[ς καὶ πά]			
	[λιν ἐπανήγα]γεν εἰς τὸ αὐτὸ καὶ εἰ[ρήνην π]			
10	[αρεσκεύασε Ἀ]θηναίους καὶ τεῖ χώ[ραι καὶ]			
	[... ⁹ ... αἰ]ρεθεὶς ὑπὸ τοῦ δήμο[ν τοῦ Ἀθ]			
	[ηναίων νόμου]ς ἔθηκεν καλ[οῦ]ς [καὶ συμφέρ]			
	[οντας τεῖ πόλε]ι· ὕστερο[ν δὲ -----]			

¹⁶ As in the fifth century, the leader of the state was still normally a general. Phokion was general forty-five times (Plut., *Phoc.*, VIII). The only year in which Demetrios is positively known to have been general is 308/7 (Polyaenus, IV, 7, 6).

¹⁷ The crucial restorations are by Wilhelm. References to this and to all other former editions are in *I.G.*, II, 584 and in *I.G.*, II², 1201, which has an *addendum* (p. 672) on lines 9-10; nu-movable

For the nine-space gap at the beginning of line 11, four different restorations have hitherto been advocated. These four titles have three aspects in common: each of the four is applied to Demetrios (though not to him specifically as lawgiver) by one or more ancient literary sources of one sort or another; none of the sources however gives the title to Demetrios specifically in his capacity as lawgiver; and none of the four titles by itself denotes or connotes lawgiving. We may consider them in ascending order of plausibility, adding for completeness a fifth and sixth, which in this order belong first and second.

ΘΕΣΜΟΘΕΤΗΣ (10 letters). Too long, embodying an antiquated conception of the office, and in fact never advocated as a restoration by modern scholars, this title fulfills only one requirement: the word by itself has the right sort of meaning.

ΑΝΑΓΡΑΦΕΥΣ (10 letters). Like the preceding, this term could only be restored on the assumption of an egregious error of the letter-cutter, such as the omission of a letter or the crowding of two letters into one space; and in fact no one has ever advocated restoring *ἀναγραφεύς*. Yet the term had long been the proper term for the elected redactor of a law code in Athens, and it should at least be mentioned here as fulfilling that important requirement for any restoration.¹⁸

ΕΠΙΜΕΛΗΤΗΣ (10 letters). There can be no reasonable doubt that the official title of Demetrios as regent of Athens under Macedon was *ἐπιμελητῆς τῆς πόλεως*. This is the title given in an apparently authentic summary of the terms which Kassandros made with the Athenians when the city virtually surrendered to him in the

is absent also before alpha in line 8, but present before a palatal mute in line 12. The first letter of line 3 seems to have a stroke at the top, as if to make (erroneously) a tau; but the whole groove may be merely part of a water trickle which continues the dubious stroke in both directions. For the important lines 11-12, only one alternative restoration has ever been made (Koehler's; adopted in Hicks, Michel, and ed. 2 of Dittenberger); it ran thus in Dittenberger:

11	[ἐπιστάτης αἶρ]εθεῖς ὑπὸ τοῦ δήμ[ου --- ἀνα]
12	[θήματα --- ἀν]έθηκεν κάλ[λιστα -----]
13	[----- κ]αὶ ἕστερον [-----]

This restoration has been abandoned in Dittenberger, ed. 3 (no. 318), and universally, in favor of Wilhelm's; rightly, in view of the new sigma read by us at the beginning of line 12—a faint trace but in precisely the right position. In line 13 the alpha and nu were simple errors: no editor who has examined the stone reports seeing either, except that the otherwise very faulty copy by Pittakys includes the nu.

The preserved dimensions suggest a stele large enough for as many as 20 more lines of text (cf. *Hesperia*, III, 1934, p. 143). The content of these lines, apart from the usual formulae of payment, etc., can only be conjectured. No other preserved decree of a deme honors any known leader of the state, and it may be doubted whether the Aixoneis had any particular reason of their own for so doing. Perhaps they decreed, in the part now missing, a statue to Demetrios on the ground of his services to the state as a whole—one of the numerous statues mentioned in the literary evidence.

¹⁸ See further *infra*, p. 158.

spring of 317, and Demetrios came into power. Demetrios was chosen by Kassandros under an article of the treaty which stated that he was to select one Athenian to be ἐπιμελητῆς τῆς πόλεως.¹⁹

Considering ἐπιμελητῆς as a restoration in *I.G.*, II², 1201, we note first of all that it exceeds by one letter the number of letter-spaces available for restoration, but Wilhelm²⁰ observed that in line 6 the iota of χωρισθέντ[ων] stands not in a stoichos, but midway between the two adjacent stoichoi in which rho and sigma are accurately placed. He suggested that the mason sometimes preferred to carve iota—the uniquely thin letter of the Greek alphabet—between stoichoi; hence ἐπιμελητῆς might be restored, on the assumption that the iota was carved, not in one of the nine available spaces, but between the second and third of them. Recently, moreover, R. P. Austin²¹ has pointed out that “the instances of the grouping of iota with another letter are so numerous that it would be pointless to attempt a list of them.” Clearly the restoration of ἐπιμελητῆς cannot be excluded on spacial grounds alone. Yet the total number of iotas cut outside their stoichoi is proportionately small. In several years we have come across less than a dozen significant instances; certainly fewer iotas than one in a hundred, perhaps fewer than one in a thousand, are misplaced. In the present inscription 24 iotas preserved on the stone are in their proper stoichoi. Only the one is outside. Hence there is a definite “epigraphical” presumption against restoring ἐπιμελητῆς.

Apart from arguments about space, that restoration must be considered also in its constitutional aspect. As we have seen, the excellent account in Diodorus states clearly that Demetrios was chosen by Kassandros, whereas the inscription is equally clear in saying that in his capacity as lawgiver Demetrios was elected by the Demos of the Athenians. On this ground the restoration ἐπιμελητῆς is virtually excluded, as Ferguson rightly affirmed.²² The only possible defense for it would be a theory that Demetrios was elected to the non-Athenian office of ἐπιμελητῆς by the Athenians as well as being appointed to that position by Kassandros. This procedure would be farcical and no one has suggested it.

ΠΡΟΣΤΑΤΗΣ (9 letters). Among the nine-letter titles which have been suggested, προστάτης was used regularly, as by Aristotle, to denote the leading man of the state. The title was thus appropriate as a general designation of the position occupied by Demetrios in the years 318/7-308/7, and it is not surprising to find that Demochares

¹⁹ Diodorus Siculus again mentions the title ἐπιμελητῆς in XX, 45, 2. Modern authorities agree in accepting this: Ferguson, Tarn, Roussel (see note 7, *supra*); and H. Bengtson, *Die Strategie in der hellenistischen Zeit*, I (Munich, 1937), pp. 54, 91. For the view of Heuss, see *infra*, p. 152, note 26.

²⁰ *Gött. gel. Anz.*, CLXV, 1903, p. 784.

²¹ *The Stoichedon Style in Greek Inscriptions* (Oxford, 1938), p. 38.

²² *H.A.*, p. 47, note 5.

(in Polybius, XII, 13, 9) speaks of Demetrios as *προστάτης* in this period. But the position of *προστάτης* was notoriously quite outside the constitution. It seems to us doubtful whether it would even have occurred to an Athenian that a man might be "elected" *προστάτης*.

ΕΠΙΣΤΑΤΗΣ (9 letters). Two literary sources, both obviously not striving for accuracy, apply this term or a derivative to Demetrios.²³ It was the common designation of rulers of Greek cities under Macedon.²⁴ There is, however, no special reason why it should be applied to Demetrios in line 11 of the decree of Aixone,²⁵ and of course the constitutional reason is decisive against it (*supra*, s. v. *ἐπιμελητής*). In any case, a man who had just been appointed *epimeletes* would hardly be elected *epistates*.

ΣΤΡΑΤΗΓΟΣ (9 letters). The most plausible restoration hitherto discussed, and the most strongly supported,²⁶ is *στρατηγός*. The principal consideration in its favor has been the argument, already discussed, which tries to show that Demetrios must have been general in 317/6. We have noticed, however, that the first election of Demetrios to a generalship was almost certainly before 317/6. Hence the decree of Aixone would hardly emphasize his being elected general as late as 317/6; generalships would have been mentioned earlier in the decree, if tenure of that office were a remarkable fact.²⁷

²³ Diodorus Siculus, XX, 45, 4 (using only the verb); Strabo, IX, 378.

²⁴ Heuss, *Stadt*, pp. 31-36, 59-61; Ferguson, *H.A.*, p. 47, note 3; and references.

²⁵ The only scholar who advocated this restoration, U. Koehler (*I.G.*, II, 584), did so with hesitation; Kirchner deferred to his authority in *P.A.*, 3455.

²⁶ The prime advocate of *στρατηγός* was De Sanctis (*Studi di storia antica*, II, p. 15, note 1, and p. 16, note 1; cf. Ferguson, *H.A.*, p. 47, note 5). Heuss (*Stadt und Herrscher des Hellenismus* [*Klio, Beiträge zur alten Geschichte*, Beiheft 39, N. F. 26; Leipzig, 1937], pp. 53-57, esp. p. 54, note 1) interprets the wording of the Athenian treaty with Kassandros (*καταστήσαι δ' ἐπιμελητὴν τῆς πόλεως ἓνα ἄνδρα Ἀθηναῖον ὃν ἂν δόξῃ Κασσάνδρῳ· καὶ ἡρέθῃ Δημήτριος ὁ Φαληρεὺς*) thus: "The Athenians were to invest with power as governor of the city a single person, an Athenian citizen, whomever Kassandros should select; to this position Demetrios was elected." In other words, the man of Kassandros' choice was elevated to power by the Athenians through formal election. Though this may possibly have happened, it is not to be found in the Greek. *καταστήσαι* does not necessarily mean "elect," and *ἡρέθῃ* has always been interpreted as meaning "chosen [by Kassandros]." Heuss goes on to define the office which the Athenians voted to Demetrios. It was *not* the position of *ἐπιμελητής*, since that was not an Athenian office and since in the treaty the word *ἐπιμελητής*, according to Heuss, is used in a non-technical sense. Rather, Demetrios was elected *στρατηγός*: "Seinen offiziellen Titel hatte er von dem Amt, zu dem er Jahr für Jahr gewählt wurde; er war *στρατηγός*. So steht es in den öffentlichen Urkunden." The "öffentliche Urkunden" upon which Heuss relies are, of course, *I.G.*, II², 2971 and 1201.

The general thesis of Heuss is doubtless sound. In the Hellenistic world the Macedonian overlords controlled the individual city-states through the constitutional machinery already established in those states. A governor usually had his henchmen (or even himself) elected to the controlling offices of the city-state and thus was able to rule constitutionally. The forms were observed even though garrisons were present. But that Heuss should attempt to make Demetrios serve to illustrate this thesis is unfortunate.

²⁷ Since about the middle of the fourth century, five of the generals had been elected to specific

IV. A RESTORATION NOT HITHERTO ADVOCATED

NOMOΘΕΤΗΣ (9 letters). If Demetrios had been an unschooled adventurer of the type of many fourth-century tyrants and *condottieri*, there would be no point to the present study. Such a person, if he gave laws at all, would naturally impose his law code without weighing carefully the constitutional and political implications of the various titles which he might adopt to denote his office as lawgiver. In fact he would probably give laws simply by virtue of whatever office he already held—"general" or "superintendent"—without adopting any special title appropriate for a lawgiver. This is really what has often been assumed with regard to Demetrios. The assumption has been tacit, and we are not convinced that attention has ever been focussed upon precisely this aspect.²⁸

Surely no argument is needed to prove that the basis of this assumption is incorrect. We have noted how closely he followed his teachers when he drew up his code. Of all ancient lawgivers, none would be more inclined than Demetrios of Phaleron to select his title—or rather, to dignify himself by the proper "style"—as lawgiver. A scholar who had spent years in the Peripatetic School, who had doubtless known Aristotle and who had been trained by Theophrastos; an antiquarian whose studies reached back to Solon; a researcher who had worked upon and added to the great *Corpus* of legal matter accumulated in the School would hardly contemplate, in this connection, such titles as "superintendent" or "general." The mere thought of such a *gaucherie* would have repelled him.²⁹

posts, among them the one ἐπὶ τοὺς ὀπλίτας. In the course of centuries this post eventually acquired as great prestige as any in the state. Whether in the time of Demetrios it carried special prestige is unknown,—probably it did, since Aristotle mentions it first ('ΑΘ. Πολ., 61),—but in any case Demetrios could hardly have been elected hoplite general in a year when he was to give laws, since the sphere of the hoplite general was specifically *foreign* wars (*ibid.*). (The history of the generalships was first made out by Ferguson, in *Klio*, IX, 1909, 314-323; summary in Busolt-Swoboda, *Griech. Staatskunde* [Müllers *Handbuch*], München, 1926, pp. 1121-1124.) For what it is worth, we may note that it was not Demetrios but another general (Thymochares of Sphettos) who led an expedition against the pirate Glauketes in 315/4 B.C. (*I.G.*, II², 682) and again to aid Kassandros in 313/2; in that year Thymochares succeeded another Athenian general in command of a foreign expedition, one Aristoteles (*H.A.*, pp. 50, 51). Of course Thymochares can have been among the five unassigned generals. Furthermore, since in one year Demetrios was honored by the garrisons, he was probably not hoplite general in that year, but rather στρατηγὸς ἐπ' Ἐλευσίνος.

Recently H. Bengtson has compared the position of Demetrios under Kassandros to that of Phokion under Antipatros (*Die Strategie in der hellenistischen Zeit*, I: *Münchener Beiträge zur Papyrusforschung*, XXVI [München, 1937], pp. 54, 91, 234). It is claimed that Phokion was hoplite general (Beloch, *Gr. Gesch.*², IV, 1, p. 77), but this is merely an hypothesis. If it were true, it would not render more probable the notion that Demetrios gave laws as general in charge of foreign expeditions. Bengtson, however, does not deal with the lawgiving or with *I.G.*, II², 1201.

²⁸ Of course, if the assumption were correct, there would be no possibility, on our present evidence, of determining what title Demetrios held as lawgiver; and further, the title, if discovered, would give no helpful indication as to the spirit of the code as a whole.

²⁹ Recently two French scholars have characterized Demetrios and his work. Roussel says

Accordingly the possibility should at least be considered that Demetrios chose to be called νομοθέτης.³⁰ In the simple decree of Aixone it fits the space, the sense, and the wording [καὶ νομοθέτης αἰ]ρεθεὶς ὑπὸ τοῦ δήμο[υ τοῦ Ἀθηναίων νόμου]ς ἔθηκεν καλ[οῦ]ς [καὶ συμφέροντας τεῖ πόλει]; for the wording, cf. Plato, *Rep.*, 497 D, ὁ νομοθέτης — — τοὺς νόμους ἐτίθει. As the title of a work in five books describing his own lawgiving, Demetrios chose Περὶ τῆς Ἀθήνησι νομοθεσίας.³¹ His assumption of power was peaceful (Plut., *Lyc.*, 23) and his ten years of supremacy seem to have been entirely free of strife and bloodshed. Demetrios was “mild, urbane, and conciliatory” (*H.A.*, p. 54), as a pupil of Aristotle ought to be. Such changes as Demetrios made in the framework of the government—the limitation of the franchise to those possessing 1000 drachmai (the upper four-sevenths of the population), the creation of νομοφύλακες and γυναικονόμοι—were conservative.³² His constitution was doubtless put forward as being κατὰ τὰ πάτρια.³³ He could even claim to have restored the democracy;³⁴ and actually in admitting to citizenship persons who possessed more than 1000 drachmai, Demetrios had gone below the zeugite limit (2000) which the oligarchy of 322-319 had set (*H.A.*, p. 25). His own great interest in a new code for Athens is proved by the fact that it was the first big job he undertook after being established in power (*infra*, pp. 159, 165). His seriousness in government is illustrated

his legislation was inspired by a doctrinaire spirit (in G. Glotz, *Hist. gr.*, IV, 1, p. 327); L. Robert cites Lykourgos and Demetrios as illustrating a current of traditionalism, of patriotic and religious archaism, in the last third of the fourth century B.C. (*Études épigr. et philol.*, p. 316). The view of Robert was already set forth in more detail by Ferguson (*H.A.*, pp. 87, 102-103). Both characterizations have considerable validity. According to either, incorrectness in a title would be abhorrent to Demetrios.

³⁰ Ferguson admitted it as a possibility (*H.A.*, p. 48). In 1877 R. Schoell suggested that Demetrios was officially νομοθέτης during his whole rule (*Commentationes Philologae in hon. T. Mommsen*, p. 470). Schoell does not mention the inscription.

³¹ *F. Gr. Hist.*, 228, T, 1 and 11 = Diog. Laert., V, 80, and Marcellinus, *Vita Thucydidis*, 32. Demetrios wrote six other works on laws and government (Diog. Laert., *loc. cit.*, titles 2, 3, 4, 5, 21, 32).

³² Meritt has shown good reason for believing that the secretary named in decrees was not the one-year secretary of the Boule who for some three decades had been named in the preambles of decrees (this office was abolished), but probably the secretary of the prytaneis, who of course changed with every prytany (Pritchett-Meritt, *Chronology of Hellenistic Athens*, pp. 1-7, esp. p. 7, note 24). This was a reversion to the practice of the years before 356/5. Pritchett and Meritt hold that the Priests of Asklepios continued throughout Demetrios' term to rotate in the regular tribal order: specific evidence is lacking, but there is no reason to doubt it (*The Chronology of Hellenistic Athens*, pp. 11, 75-76, 81). There is some evidence that under Demetrios the Secretaries of the Treasurers of Athena did not continue to rotate in the official order of the tribes (Ferguson, *Treasurers of Athena*, p. 144, note 3).

³³ The oligarchy of 322-319 had also claimed to govern according to the principles of Solon (Diodorus, XVIII, 18, 5; *H.A.*, p. 25).

³⁴ Strabo (IX, 1, 20 = C 398): Δημήτριον τὸν Φαληρέα — — ὃς οὐ μόνον οὐ κατέλυσε τὴν δημοκρατίαν, ἀλλὰ καὶ ἐπὶνέρωθωσε. δηλοῖ δὲ τὰ ὑπομνήματα, ἃ συνέγραψε περὶ τῆς πολιτείας ταύτης ἐκεῖνος [Demetrios].

by the general tenor of his rule, by his rigid observance of the amnesty under which he began, and by such particular circumstances as his refraining for seven years from holding the archonship.³⁵ To the office as holder of which he gave laws, Demetrios was elected ([αἰ]ρεθείς) by a body which the Aixoneis could call the “*demos* of the Athenians” (*I.G.*, II², 1201, lines 11-12). This of course was the *ekklesia*, which four-sevenths of the Athenians were eligible to attend. Yet the comparative inactivity of this body under Demetrios warns us that his title cannot be determined by general reasons alone.³⁶

Demetrios himself, in his *Socrates*, used the word νομοθετῶν to describe his activity as lawgiver. The reference is to the mother and aunt of a poor grandson of Aristides: τῇ δὲ μητρὶ καὶ τῇ ταύτης ἀδελφῇ ψήφισμα γράψας [Δημήτριος] ἔπεισε τὸν δῆμον τροφὴν διδόναι τριώβολον ἐκάστης ἡμέρας. αὐτὸς μέντοι φησὶν ὁ Δημήτριος νομοθετῶν ἀντὶ τριωβόλου δραχμὴν ἐκατέρα τάξαι τῶν γυναικῶν (Plutarch, *Aristides*, XXVII, 3).

H. Bloch has pointed out to us another reference which has escaped notice in this connection. It is a passage in the characterization of Demetrios which his fellow-student and enemy Duris has left us. After presenting a picture of the extravagances of Demetrios, Duris continues: καὶ ὁ τοῖς ἄλλοις τιθέμενος θεσμούς Δημήτριος καὶ τοὺς βίους τάπτων ἀνομοθέτητον ἑαυτῷ τὸν βίον κατεσκεύαζεν.³⁷ Interest centers in the word ἀνομοθέτητον. In Duris' time, this was a relatively new word, created by Plato in his later years to denote aspects of life which are not regulated by legislation. It occurs in five passages in the *Laos*, one of which is the following: ὅστις δὴ διανοεῖται πόλεσιν ἀποφαίνεσθαι νόμους, πῇ τὰ δημόσια καὶ κοινὰ αὐτοὺς χρὴ ζῆν πράττοντας, τῶν δὲ ἰδίων ὅσον ἀνάγκη μηδὲ οἶεται δεῖν, ἐξουσίαν δὲ ἐκάστοις εἶναι τὴν ἡμέραν ζῆν ὅπως ἂν ἐθέλῃ, καὶ μὴ πάντα διὰ τάξεως δεῖν γίνεσθαι, προέμενος δὲ τὰ ἴδια ἀνομοθέτητα, ἡγέεται τά γε κοινὰ καὶ δημόσια ἐθελήσειν αὐτοὺς ζῆν διὰ νόμων, οὐκ ὁρθῶς διανοεῖται.³⁸

³⁵ Tenure of the archonship by Demetrios could be and doubtless was accomplished constitutionally by the absence or withdrawal of other candidates (W. S. Ferguson, *A.J.P.*, LIX, 1938, p. 234). Along with several bits of scandalous gossip, Diogenes Laertius says Demetrios failed to appear in court when charged with murder. Was this a deliberate fiction intended to suggest a contrast with Peisistratos, who was said to have answered a similar summons (the accuser on that occasion tactfully absenting himself: Aristotle, *Ἀθ. Πολ.*, 16)?

³⁶ The only decrees which can now be assigned to the decade of Demetrios are *I.G.*, II², 450 of 314/3, 451 of 313/2, 453 of 310/9, and probably 449 of 318/7 (Pritchett-Meritt, *Chronology of Hellenistic Athens*, p. 1). It must be remembered that these are decrees *published*; possibly many were passed, but Demetrios *may* have discouraged public monuments of marble as he did private, though to be sure the public stelae were cheap. It is also to be remarked that the *ekklesia* *did* continue to function. Making these allowances, however, we must surmise that legislative activity was less than under the pure democracy.

³⁷ Jacoby, *F. Gr. Hist.*, II, 76F 10.

³⁸ VI 780A. The other four passages containing ἀνομοθέτητος are VI 781A, 783B, 785A, and VIII 846C. All relate to the present argument.

Plato here enunciates the thesis that the legislator must not leave matters of private life *ἀνομοθέτητα*, and it was just this doctrine of Plato's that Demetrios followed in his sumptuary legislation. Duris' allusion is now clear. The legislator follows the teachings of his master in not leaving the private affairs of others *ἀνομοθέτητα*, but leads a life of his own which is wholly *ἀνομοθέτητον*. The important point is that Duris' use of this Platonic word (in place of e. g., *ἄνομος*) would have been without real meaning *if* Demetrios had not posed as the Platonic legislator incarnate and had not actually borne the title—suggested by the Platonic tradition—of *νομοθέτης*. That Duris is punning on Demetrios' Athenian title is confirmed by the sentence which follows the passage quoted above: *ἐπεμελείτο δὲ καὶ τῆς ὄψεως, τὴν τε τρίχα τὴν ἐπὶ τῆς κεφαλῆς ξανθίζόμενος, κτλ.* Here Duris is surely indulging in a play on Demetrios' title as Macedonian overlord (*ἐπιμελητής*). Here too the element of contrast is strong and provides a sort of grim humor: the mighty *ἐπιμελητής* expends his energies on the beautification of his person. If Duris' account contained only one of these words (i. e., *ἀνομοθέτης* or *ἐπιμελείτο*), we should perhaps hesitate before recognizing a *double-entendre*; but the presence of two, both of which gain real force only through such an interpretation, leaves no room for doubt.

A certain tradition which reached Syncellus knew Demetrios as a *νομοθέτης*: Syncellus writes: *Δημήτριος ὁ Φαληρεὺς ἐγνωρίζετο τρίτος νομοθέτης Ἀθήνησιν.*³⁹ In view of the evidence as a whole, it seems indubitable that the tradition seen in Syncellus preserved the technical title, and that in *I.G.*, II², 1201, line 11, the restoration should be *νομοθέτης*.⁴⁰

³⁹ 521; *Corp. Hist. Gr. Byz.*, pp. 273B, 274D. Solon would certainly be one of the others, but the third cannot be precisely determined. Probably not Theseus: he was thought of as a founder of institutions, not as the author of a quotable code (Plut. *Theseus*, *passim*). Possibly Kleisthenes, although his measures may have been not *νόμοι* but *ψηφίσματα* in form. (Wade-Gery, *Class. Quart.*, XVII, 1933, pp. 20-21). Thought on this subject earlier was loose: Lysias, XXX, 28 names Solon, Themistokles, and Perikles as the previous *νομοθέται*. Draco is of course the most plausible candidate: his *θεσμοί* were a by-word for their severity. The traditional body of laws was thought of (Andocides, I, 81-82) as being the work of Draco and Solon, and indeed some (*I.G.*, I², 115) of Draco's code, reenacted in 411-401, stood in the Agora as part of the laws of Athens re-codified in those years. On the reputation of Draco, and on the names of lawgivers coupled with his name, see A. C. Schlesinger, *Classical Philology*, XIX, 1924, pp. 370-373.

⁴⁰ In Egypt later Demetrios again gave laws probably under the same title: *νομοθεσίας ἤρξε* (Aelian, III, 17). Some, probably many, of the laws which he promulgated in Egypt were the same as those which he had promulgated in Athens (Ferguson, *Klio*, XI, 1911, p. 276).

In an article on "Die Nomotheten und die Legislative in Athen" (*Klio*, XXXI, 1938), Kahrstedt remarks (p. 5, note 3), "Wenn *I.G.* II² 1201, 11 ff. Demetrios von Phaleron gerühmt wird wegen der *νόμοι οὓς ἔθηκε*, ist seine Stellung als Epimelet von Athen und sein realer Einfluss auf die Gesetzgebung gemeint, keine Stellung als Nomothet, weder im Sinne des Solon noch in dem des 4. Jahrh.; Plut. Demetr. 24 ist davon die Rede, dass alle Erlasse des Poliorketen für Athen Gesetzeskraft bekamen, sicher übertrieben, was das formale Recht angeht, und ohne Bezug zu unserem Thema." About Poliorketes this pronouncement may well be correct, but the alleged parallel between him and the Phalerian is surely imperfect. Poliorketes was worshipped as a god,

V. FACTORS IN CHOOSING THE TITLE

Some reconstruction ought to be possible of the reasoning followed by Demetrios when he came to decide what title he should adopt as lawgiver. His desire was to conform to the best practice: very well, he had only to ask what title the great lawgivers of the past had held, and to consult the usage established in more recent times. Assuredly an answer would be easy.

Theseus had been king, but βασιλεύς of course was out of the question. Aristotle believed that Draco had legislated as thesmothetes,⁴¹ but that title also now denoted an officer of different powers. Demetrios wrote an Ἀρχόντων ἀναγραφὴ⁴² and doubtless he knew that Solon had held the office of (senior, eponymous) ἄρχων.⁴³ The archonship, however, like the office of βασιλεύς and θεσμοθέτης, likewise had long since ceased to have powers of this sort, and to revive them would be equally revolutionary. As to what office, if any, was held by Kleisthenes, we do not know, and probably Demetrios too was ignorant. The best guess is perhaps that he held no office, but merely that he put forward his reforms as a private citizen, in the shape of ψηφίσματα.⁴⁴ For Demetrios to have done so would probably have seemed straightforward tyranny. Thus the titles of the great lawgivers of the distant past gave Demetrios no help whatever.

Constitutional practice in the recent past was another matter. Broadly speaking, recent lawmaking, from 411/10 on, had been in the hands of boards of νομοθέται.⁴⁵ The nomothetic procedure had been a special study of Demetrios' own teacher Theophrastos; Aristotle himself had deferred to Theophrastos on the subject.⁴⁶ Hence Demetrios was in full possession of the facts; and if he wished to consult Theophrastos, Theophrastos was at hand in Athens.

and his will probably was conceded to have the force of law, i. e., of ψηφίσματα and of νομοι. To give his will the force of ψηφίσματα, however, was to make him a tyrant. The Phalerian was not worshipped; unless we have misinterpreted his whole attitude, he was far from being or from wishing to be in any formal sense a tyrant. To have himself elected to the position which Solon had held was a quite different matter (see the following section). Kahrstedt fails to discuss the restoration in *I.G.*, II², 1201, line 11.

⁴¹ Aristotle, *Ἀθ. Πολ.*, 4, 1-2; cf. Sandys' note. Adcock has conjectured (*Camb. Hist. Journ.*, II, 1927, p. 99) that "Draco may quite well have been Basileus or invested with extraordinary powers limited in time and in scope." We prefer the latter alternative. The exact title is probably unknowable.

⁴² Diog. Laert., I, 22; omitted from the list in V, 80-81.

⁴³ Aristotle, *Ἀθ. Πολ.*, 5, 2.

⁴⁴ Wade-Gery, *Class. Quart.*, XXVII, 1933, pp. 20-21.

⁴⁵ General account: Busolt-Swoboda, *Griechische Staatskunde*³, pp. 1011-1013. In more detail: U. Kahrstedt, *Klio*, XXXI, 1938, pp. 1-32.

⁴⁶ H. Bloch, *H.S.C.P.*, Suppl. I, 1940, pp. 367-376.

In the earlier part of the fifth century, there had been boards of *συγγραφεῖς*.⁴⁷ Autocratic and objectionable, they had been replaced, at least from 411 B.C. on, by large (usually 501 or 1001) boards of *νομοθέται*. To assist such boards, or to do a more extensive job extending over a period of years, the normal procedure at times had been to appoint a smaller board of *ἀναγραφεῖς* of whom one (such as Nikomachos) had been recognized as the responsible head.⁴⁸ The title *ἀναγραφεὺς* would therefore seem to have been the logical constitutional term for Demetrios.⁴⁹ In its historical usage, however, *ἀναγραφεὺς* denoted an official whose laws might be suggested, criticized, and voted upon by others, whereas the present code was to be laid down in final form by Demetrios alone. Against *ἀναγραφεὺς* there were probably two additional reasons in Demetrios' mind. One was that the title had just been used under the oligarchy of 322/1-319/8 for the secretary who during that regime had replaced the Secretary of the Boule as the official responsible for the final version of decrees.⁵⁰ Demetrios had no intention of being confused with clerks. A second reason was that the word itself had the wrong meaning: his code was to be no mere *redaction*, it was rather a new creation. In sum, Demetrios could find no clear guidance in Athenian constitutional usage.⁵¹

This being so, Demetrios could safely turn where his first inclination had probably directed him, to his masters in philosophy. Their thoughts and their usage pointed with practical unanimity to *νομοθέτης*. The word is frequent in Plato. In the *Politicus*, it is used throughout to designate the "kingly-lawgiver"; of especial significance is the passage (294A) *τρόπον τινὰ μέντοι δῆλον ὅτι τῆς βασιλικῆς ἐστὶν ἡ νομοθετική*; cf. also 295B; 305. Throughout the *Republic*, *νομοθέτης* is applied to the ideal lawgiver of the ideal state: cf. 427A, 429E, 530C, 538D, etc. In the *Laws*, it is the name given to the legislator: he appears frequently, cf. 660A, 709D, 801D, 835A, 964B,

⁴⁷ W. S. Ferguson in *Camb. Anc. Hist.*, V, p. 374, note 1.

⁴⁸ In 410-401 B.C.: Lysias, XXX, 2 *et passim*.

⁴⁹ Thus Ferguson (*H.A.*, p. 47, note 5), writing at a time when the situation as to the restoration of *στρατηγός* and *ἐπιμελητής* was still confused.

⁵⁰ Dinsmoor, *Archons of Athens* (1931), p. 28.

⁵¹ A sufficient proof that Demetrios did not feel that the democratic procedure of 411-323 was his proper model, and that popular opinion did not regard his work as patterned upon democratic procedure, consists in the fact that the radical democracy of 307/6 B.C. appointed a board of *nomothetai* to revise the laws (Alexis in Athenaeus, XII, 92 = 610E). They were still at work in 304/3 (*I.G.*, II², 487 honors one Eukhares for his leading part in the *ἀναγραφή*). There is no assurance that this board was as large as those of the fourth century; since it carried out a time-consuming and doubtless extensive revision, made necessary for the democrats by the thorough work of Demetrios, the comparison should be made rather with the board (*anagrapheis*) of 410-401 B.C., in which also one man (Nikomachos) took a prominent part.

Whether the nomothetic process was kept distinct from the ordinary passing of *prophismata* in later times, our only references do not tell us. *I.G.*, II², 834: Eurykleides is praised *ca.* 225 B.C. because he *εἰσήνεγκεν δὲ καὶ νό[μους]* ---, and similarly Kephisodoros in *Hesperia*, V, 1936, p. 422, no. 15 of 196/5, *τεθγκὼς δὲ καὶ νόμους συμφέροντας ἐφ' ὁμονοίαι πάντων Ἀθηναίων*.

etc.⁵² Νομοθέτης is also Aristotle's term. The *Politics* is particularly significant: cf. 1274 B 36, 1288 B 27, 1325 A 7, 1326 A 4; here the doublet ὁ πολιτικός καὶ ὁ νομοθέτης or the equivalent is usual; when a distinction is to be made, however, ὁ πολιτικός becomes the practical politician, who may be the victim of serious defects, but ὁ νομοθέτης is the true lawgiver in the highest sense of the word and is treated by Aristotle with the greatest respect: cf. note on 1288 B 27 in Newman's edition of the *Politics*. We have already seen that Theophrastos used the term as the title of a book which presumably dealt with the great lawgivers of the past.

Altogether there can be no reasonable doubt that Demetrios interpreted the masters to mean that one of the first duties of a philosopher upon securing power was to become a νομοθέτης. The fact that he was the sole holder of this position and that the whole process was different would distinguish him sufficiently from the large democratic boards of νομοθέται.

VI. BOUNDARY-STONES⁵³

In 1911, when Ferguson sought to establish the date of Demetrios' code by means of dated boundary-stones,⁵⁴ there were 12 such ὄροι to consider: they yielded a clear verdict, viz., that the Code went into effect in 315/4 B.C. Now there are 22, and they should be scrutinized even if they point to the same date.

In the following list, square brackets indicate that the date has been wholly or partially restored. Items not on Ferguson's list are italicized. All numbers not preceded by abbreviations are references to *I.G.*, II²; thus 2654 means *I(nscriptiones) G(raecae)*, II², 2654. An asterisk indicates that the inscription is discussed in the Commentary which follows the tables. Exact dates for boundary-stones of the third century are of no consequence for this study: solely because they give convenient references, I repeat Pritchett's and Meritt's dates as given in their *Chronology of Hellenistic Athens*. For divergent dates, see W. S. Ferguson, *Tribal Cycles*, and W. B. Dinsmoor, *Archon List*.

⁵² It is worth noting that probably none of Demetrios' predecessors in philosophy would have sanctioned the notion of a general, as general, giving laws. An apposite text could have been found in Plato, *Politicus*, 305a, οὐκ ἄρα πολιτικὴν θήσομεν, ὑπηρετικὴν γε οὔσαν, τὴν τῶν στρατηγῶν ἐπιστήμην.

⁵³ Professor J. V. A. Fine of Princeton University has generously informed us of the pertinent results of his study of the ὄροι found in the Agora, which he will publish. Dr. A. E. Raubitschek of Yale University made the drawing of *I.G.*, II², 2656. Both these colleagues also contributed helpful suggestions.

⁵⁴ *Klio*, XI, 1911, p. 265.

DATED BOUNDARY-STONES

DATE	INSCRIPTIONS	DATE	INSCRIPTIONS
[—]—363/2 B.C.	2654*	302/1	2657
316/5	FERGUSON'S DATE FOR THE PROMULGATION OF DEMETRIOS' CODE	301/0	Agora I 5579 (unpublished)
315/4	2725; 2726; 2744; 2745	291/0	'Αρχ. Δελτ., XIV, 1935, παράρτημα, pp. 31-32, no. 3
314/3	I.G., XII, Supplement (1939), p. 147, no. 18; * I.G., XII, 8, no. 19; * [2724]*.	ca. 272/1	[2655]*
313/2	2680; 2762 (?)*	ca. 267/6	Agora I 5873 (unpublished)
312/1	2727	265/4	[2656]*
309/8—308/7	Hesperia, X, 1941, pp. 54-55, no. 18.	ca. 260/59 ?	[Hesperia, III, 1934, p. 65, no. 57, with revision in Hesperia, XI, 1942, p. 313]*
305/4	2678; 2679	228/7	2630* p. 163, n. 55.

Ferguson also noted that the phrase specifying with whom a copy of the contract was deposited (*κατὰ τὰς συνθήκας τὰς κειμένας παρὰ τοῦ δέινος*) is not known on *ὄροι* before 316, but is regular, though not invariable, after that date. The list now reads:

BOUNDARY-STONES MENTIONING CONTRACTS

DATE	INSCRIPTIONS	ARCHON
315/4	2725; 2726	Praxiboulos
314/3	I.G., XII, Supplement (1939), p. 147, no. 18; * I.G., XII, 8, no. 19; * [2724]*	Nikodoros
312/1	2727	Polemon
fin. s. IV	2701	(no archon named)
	2741	(no archon named)
	2758*	(no archon named)
	2759	(beginning lost)
	2769	(beginning lost)
291/0	'Αρχ. Δελτ., XIV, 1935, παράρτημα, pp. 31-32, no. 3	Aristonymos

I.G., II², 2741, 2758, 2759, and 2769 are not dated by Kirchner, but such evidence on letter-forms and persons as he gives indicates that all belong in the fourth century B.C.

Those boundary-stones follow of which a text is complete or virtually complete and which have no mention of any copy of the contract deposited with a person.

BOUNDARY-STONES NOT MENTIONING CONTRACTS

DATE	INSCRIPTIONS	DATE	INSCRIPTIONS
ca. 350 B.C.	2723	302/1	2657
315/4	2744	301/0	Agora I 5579 (unpublished)
313/2	2680; 2762 (?)*	ca. 267/6	Agora I 5873 (unpublished)
309/8-308/7	<i>Hesperia</i> , X, 1941, pp. 54-55, no. 18	ca. 260/59	[<i>Hesperia</i> , III, 1934, p. 65, no. 57, with revision in <i>Hesperia</i> XI, 1942, p. 313]*
305/4	2678; 2679		

COMMENTARY

I.G., II², 2654. No squeeze is available. We assume that the tall phi recorded for line 9 is a meaningless vagary on the part of the stonecutter: it cannot be an indication of Roman date, since the orthography is fourth century B.C. The text records two transactions. The stone is broken away at the top, and the formula of dating has been restored: with some justification, namely that ἐπὶ Χαρικλείδ[ο | ἄρ]χοντος δὲ in lines 11-12 implies a date in the first part. It is easy to imagine, however, that originally, like all other known boundary-stones dating before 316/5 B.C., the first text contained no date; then, that a subsequent transaction took place, in 363/2, and was dated precisely in order to distinguish it from the first. At this time a date may or may not have been inscribed at the beginning of the first.

I.G., II², 2655. The only possible restoration of the dating is ἐπὶ Εὐβ[ούλου] | ἄρχοντο[s], but Euboulos was the name not only of the archon of 345/4 but also of at least one archon of *med. s.* III (most recently dated 272/1: Pritchett-Meritt, *Chronology*, p. XIX). It was this latter Euboulos who was preferred by Koehler, and Ferguson accepted his verdict. Kirchner, apparently without considering Ferguson's dating of the code, reverted to the earlier Euboulos on the ground of lettering. Raubitschek has examined a squeeze and his verdict, resting on the fact that in the sigmas the top and bottom strokes are nearly parallel, is for the third century (*per litt.*; and *Hesperia*, XI, 1942, p. 313, note 74). The lower part of the stone is broken away so that quite possibly a second date, as in *I.G.*, II², 2654, was mentioned in the part now missing.

I.G., II², 2656. Kirchner reports that the surviving part of the archon's name is //ΙΔΟΥ and the restoration was [ἐπὶ Σίμω]νίδου. Raubitschek and Fine have examined a squeeze, and Raubitschek has sent us the following drawing of lines 1 and 2:

Fig. 2. *I.G.*, II², 2656

The text should therefore read:

265/4 [ἐπὶ Φιλί]ππίδου [ἄρχοντος]
 [ὄρος] χωρίου ἀποτ[ιμήματος]
 [κτλ.]

I.G., II², 2724. No squeeze is available. As read by Meritt and restored by Kirchner (without mention of Ferguson's article), the first three lines are:

319/8	[ἐπὶ ἄρχοντος Ἀπ]	12½ letters
	[ολλ]οδώρον ὄρος	13 letters
	[χωρί]ον καὶ οἰ[κί]ας καὶ	15½ letters

Kirchner had a squeeze, and he *may* have studied the spacing for the restoration, and the style of the lettering for the date. Even if he had studied these matters, however, he would be the first to admit that the lettering and the spacing alike on boundary stones are impossible to fix precisely. It should be noted, moreover, that of the remaining seven lines of the inscription, which is complete in this respect, every line begins with a new word, except line 9, which begins with a new syllable. The break restored at the end of line 1 is therefore suspect. For the years 400-200 B.C., the following names of archons end in -όδωρος:

366/5 B.C.	Κηφισόδωρος
350/49	Ἀπολλόδωρος
319/8	Ἀπολλόδωρος

314/3	Νικόδωρος
294/3	Ὀλυμπιόδωρος
240/39	Ἀθηνόδωρος

Of these Nikodoros is preferable if we are to seek a name which can actually begin the line. A choice can also be made by observing the unusual order ἐπὶ ἄρχοντος τοῦ δέινος, the title being mentioned before the name. This order, which became common in the second century after Christ, is found, so far as we know, only twice in the Greek period. The other occurrence is *I.G.*, XII, 8, 18, a boundary-stone of Lemnos (*supra*), where the dating reads ἐπὶ ἄρχοντος Νικοδώρου.⁵⁵ The Lemnian evidence is not quite as telling as it appears at first. It is highly probable, but it is not proved, that the archon is the Athenian archon and not a local one (C. Fredrich, commentary on *I.G.*, XII, 8, no. 19; *et supra*). It is true also that another boundary-stone in Lemnos of the same year has the usual order, ἐπὶ Νικοδώρου ἄρχοντος (*I.G.*, XII, 8, no. 19), and so has the Athenian decree *I.G.*, II², 450. Admitting these minor grounds for doubt, and admitting that the spacing would be allowable only on a boundary-stone, we note that the following restoration meets all other requirements:

314/3	[ἐπὶ ἄρχοντος]	10½ letters
	[Νικ]οδώρου ὄρος	12½ letters
	[χωρί]ου καὶ οἱ[κί]ας καί	15½ letters

I.G., II², 2758. The lettering is fairly regular and the date is certainly fourth century B.C. The *Corpus* would have it that lunate as well as four-barred sigmas occur in this inscription, but that is an error. No lunate form occurs.

I.G., II², 2762. The stone is lost. There were two archons named Theophrastos, the first of 340/39 and the second of 313/2. The latter date has been preferred by editors solely on account of Ferguson's dating of Demetrios' legislation; by itself, of course, the text provides no ground for preferring either one of the two dates over the other.

Hesperia, III, no. 57, revised in *Hesperia*, XI, p. 313. We have a squeeze of double thickness. Raubitschek has ably restored the name in line 3 and identified the family.⁵⁶ As to line 1, numerous traces are visible,—more than are shown in *Hesperia*, III, p. 65,—but all are difficult to interpret. The first stroke, which belongs to the first letter of the archon's name, slopes more steeply than any of the lowest

⁵⁵ *I.G.*, II², 2630, a boundary-stone, was inscribed not earlier than the Augustan period. The dating is ἄρχοντος Λεωχάρου (without the ἐπὶ); hence the text is a renewal of one of 228/7. The formulae are unique or unusual in several other respects.

⁵⁶ Since the last preserved letter of line 3 has the form Π, which is exactly the form of the pi in line 5, it should not be printed as indubitable, but as η (with a dot), or <η>, which in this inscription may well stand for epsilon; or possibly, since no other eta in this inscription has the same form, the strokes stand for iota tau, as in Τῖτ[ῶνος].

strokes of the three preserved sigmas. In restoring $\epsilon[\pi\iota] \Sigma\iota[\mu]\omega\nu[\acute{\iota}\delta\omicron\nu]$, Raubitschek depended somewhat on Ferguson's principle, the one which we are now testing. Hitherto the reading of the two letters $-\omega\nu-$ has been unquestioned, but, if they are correct, the spacing is certainly too cramped to accommodate more than half the omega and all the mu, if the mu was as large as the mus of lines 3 and 5. Hence doubt arises as to $\Sigma\iota[\mu]\omega\nu[\acute{\iota}\delta\omicron\nu]$. Meritt's original suggestion, $[\chi\alpha\iota\rho]\omega\nu[\acute{\iota}\delta\omicron\nu]$, is doubtful for the same reason. Actually neither the omega nor the nu is certain: a more likely reading, it seems to us, is $-\omicron\mu-$. Further, the slope of the preserved stroke of the first letter (not recorded in Meritt's drawing) is really not suitable for sigma, chi, or even kappa; another stroke seems to join it, and the traces fit a misshapen phi. Conformably with all the evidence, including spacing, we suggest that the reading is $\epsilon[\pi\iota] \Phi[\alpha]\nu\omicron\mu[\acute{\alpha}\chi\omicron\nu]$, who was archon in 260 B.C. There seems to be a trace of a vertical stroke before the omicron. In this inscription the two preserved nus have sloping strokes. Hence a slight doubt remains.

I.G., XII, Supplement (1939), p. 147, no. 18. This gives the text of *I.G.*, XII, 8, no. 18 as revised in *B.C.H.*, XXXVI, 1912, p. 347. The text is not greatly altered; the dating in lines 6-7 reads as follows: $\epsilon\pi\iota \acute{\alpha}\rho\chi\langle\omicron\nu\rangle|\tau\omicron\varsigma \text{Νικодώρου}$.

I.G., XII, 8, no. 19. This is really two documents with texts which are identical except for the amounts and the dates. The dates, which alone concern us, are $\epsilon\pi\iota \text{Νικодώρου} \acute{\alpha}\rho[\chi\omicron\nu]|\tau\omicron\varsigma$ (lines 1-2) and $\epsilon\pi\iota \text{Ἀρχίου} |\acute{\alpha}\rho\chi\omicron\nu\tau\omicron\varsigma$ (lines 8-9). Archias was not an archon in Athens, but Nikodoros has always been identified with the Athenian archon of that name. To what has been said already in the commentary in *I.G. ad loc.*, add that Ferguson's principles of dating and the mention of $\sigmaυν\theta\eta\kappa\alpha\iota$ both operate to make the period *ca.* 314 probable; if so, it would be strange to find that the Lemnians had an archon Nikodoros just when the Athenians had an archon Nikodoros, *if* the two were not really the same man. Be this as it may, we think it unsafe to date Archias in the very year 314/3, since the amount in one document is X (1000), in the other $[\text{P}\text{H}\text{H}]\text{H}$ or $[\text{X}\text{H}\text{H}]\text{H}$ or some other sum not 1000.

CONCLUSIONS TO PART VI

Taking the $\sigmaυν\theta\eta\kappa\alpha\iota$ first, we note that Ferguson's conclusion still holds: there is no mention of deposited copies of the contracts in any boundary-stone dated before 315/4 B.C. But this statement rests on only seven inscriptions. There are ten inscriptions which are dated after 316/5 B.C., but which mention no contracts. Hence, as Ferguson noted, mention of $\sigmaυν\theta\eta\kappa\alpha\iota$ was not compulsory, and *absence* of such mention has no chronological value. There is every reason to believe, however, that the code of Demetrios stipulated that a copy of each contract be deposited with a third person.⁵⁷ Boundary-stones were small, and the phrase $\kappa\alpha\tau\grave{\alpha} \tau\acute{\alpha}\varsigma \sigmaυν\theta\eta\kappa\alpha\varsigma, \kappa\tau\lambda.$ would

⁵⁷ See further Ferguson, *Klio*, XI, 1911, pp. 266-267.

ordinarily double the length of the inscription; hence its frequent omission, which evidently did not nullify the transaction.

Somewhat the same situation obtains with reference to the dating of the transaction by mention of the archon on the stone. Only one instance, significant or not, remains before 315/4 B.C. (*I.G.*, II², 2654). It is perhaps odd that no more are known, since whatever reason led Demetrios to advise dating the stones presumably would have operated before 316/5 to lead some persons to date their stones. In other words, instances of dated boundary-stones earlier than 316/5 would have to be numerous to be important for dating Demetrios' code. Actually, as against the one earlier stone, there are now no less than 20 assured instances of *ῥοι* dated after 316/5. But here again it would appear that the penalty for disobeying Demetrios' law was not severe, since three complete boundary-stones (*I.G.*, II², 2701, 2741, and 2758) all mention *συνθήκαι* and so presumably are after 316/5 B.C., but none of them has the archon.

Ferguson's main conclusion appears to be even more securely established. It may be stated as follows. Those sections of Demetrios' code which applied to mortgages first went into effect in 315/4, and so doubtless were promulgated in 316/5, probably well before the end of the year, so that knowledge of them could spread in time for them to go into force on Hekatombaion 1 of 315/4.⁵⁸

WASHINGTON, D. C.

U. S. NAVY

STERLING DOW

ALBERT H. TRAVIS

⁵⁸ It is worth noting that the democratic government restored in 307 B.C. did not repeal Demetrios' laws on property transfers, if one may judge from the fact that several boundary-stones of the third century B.C. mentioning dates and contracts are now extant.