

GREEK INSCRIPTIONS

THEOZOTIDES AND THE ATHENIAN ORPHANS

(PLATES 60-61)

ONE of the most exciting epigraphic discoveries of the 1970 excavations in the Athenian Agora is the tall, complete stele shown on Plate 60.¹ It was found on August 4, 1970 re-used as a cover-slab over the Great Drain immediately east of the Royal Stoa (J 5). Prior to its use in the drain, the stone had been broken into two pieces, but both have been recovered, and they fit tightly together to form a complete stele. The stele is of fine-crystallized, white marble, with a few green streaks, but water damage has reduced most of the stone to a dark brown color and has actually removed the original inscribed surface from the lower two-thirds of the obverse face. The left side is also inscribed; the back and right side are very smoothly dressed.

Sunk into the top surface are two oblong dowel holes each *ca.* 0.07 m. deep and measuring 0.06 m. long and 0.02 m. wide (Pl. 61, b). Each lies 0.115 m. from the closest side of the stele; they are 0.29 m. apart. Distance from front surface of stele to dowel holes, 0.065 m.; from back surface to dowel holes, 0.05 m. Both holes contain much lead, the left one being almost completely full. At the left edge the top surface has been smoothly dressed to form a resting surface 0.02 m. in width; slight traces of a similar smooth band can be detected at the right edge. This evidence on the top surface indicates that a crowning member, possibly decorated with sculpture, was originally fitted tightly to the top of the stele.

7 (Plates 60-61).

Height, 1.53 m.; width, 0.67 m. (bottom), 0.645 m. (top); thickness, 0.135 m.²

Height of letters, front 0.012 m.; left side, 0.01-0.018 m.

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¹ I am greatly indebted to T. Leslie Shear Jr., Director of the Agora Excavations, for entrusting me with the publication of this important document and for much encouraging discussion of its problems. Stella Grobel Miller, who supervised the excavation of the stele, has also supplied helpful information. An earlier draft of this paper was read by several scholars whose comments have been of the greatest value to me in making appropriate revisions. In this regard I wish particularly to thank Joseph Breslin, David M. Lewis, Harold B. Mattingly, Benjamin D. Meritt, Stephen G. Miller, W. Kendrick Pritchett, and Eugene Vanderpool. A brief report on this inscription was presented at the Annual Meeting of the Archaeological Institute of America in New York on December 28, 1970. The number continues the numbering of inscriptions from the Athenian Agora begun in this volume on pp. 96-108, Nos. 1-3 and pp. 256-259, Nos. 4-6.

² An identical thickness is to be found on *I.G.*, I², 115, the republication of Drakon's homicide law in 409, and *I.G.*, II², 10, the decree and catalogue rewarding those who fought against the Thirty with limited rights of citizenship.

a. 403/2 a. *vel paullo post*

ΣΤΟΙΧ. 31

- ἔδοξεν τῇ βολῇ[ι καὶ τῷ δῇ]μωι, Ἀντιοχ-
 [ι]ς ἐπρυτάνευε[...⁸...]ς ἐγραμμάτευ-
 εν, Καλλισθένη[ς ἐπ]εστ[άτε, Θεο]ζοτίδης
 εἶπεν· ὅπόσοι Ἀθηναῖω[ν] ἀ[πέθαν]ον [β]ιαί-
 5 ωι θανάτῳ ἐν τῇ ὀλιγ[αρχίαι β]ο[ρηθ]όντ-
 ες τῇ δημοκρατίαι, τοῖς [παισ]ι τότεν ε-
 [ῦ]εργεσ[ίας ἐν]ε[κ]α τῶμ πατ[έρων] α[ῦ]τῶν ἐς
 [τ]ὸ[ν δῆμ]ον τὸν Ἀθ[ην]αῖω[ν καὶ ἀνδ]ραγαθ[ί]-
 α[ς, ...]σαι τοῖς π[α]ισι α[...⁶...] τ[ότ]ω[ν] ὁ-
 10 [β]ολὸν [τῆς] ἡμέρας τ[ροφὴν ...⁷...] δὲ το-
 ῖς ὀρφανο[ῖς] ἀποδίδω[σι ...¹⁰...] το
 Πρυτανεῖ[ο ...]ο αὐτὸς [...⁶]η[...]
 [...⁵...]αεσο[...¹⁰...]ο[...¹⁰...]σ
 [...⁷...]την οσ[...¹⁹...]
 15 δ[οκι]μασάτω αὐ[τ]ὸ[ς] [...¹⁶...]
 διδόναι αὐτ[οῖς] ...¹⁵... κα]θ-
 ἀπερ [τ]ῶν ἐν τῷ [...¹⁸... τ]-
 [ὸ]ς Ἑλληνοταμίας το[.]α[...¹³...]
 [. καθά]περ τὸς ὀρφανὸ[ς] ...¹³...
 20 [...]ο Ἀθηναίων τημη[...¹⁴...]
 [...⁵...]ι καὶ [...]ερ[...] αὐτο[...]
 [...]αιον ε[...]
 [...⁵...]ιανα[...²²...]

Left Side

- Κλεόβολος
 25 Ἀνδροκλέος
 Ἀνδροκλῆς
 Ἀνδροκλέος
 Ἀφιδναῖω
vacat
 0.037 m.
 Λυσανίας
 30 Ὀλυμπί[χο]
 Ἰππων
 [Ὀ]λυμπίχο
 Κυδαθην[α]-
 [ι]εῖς

- 35 Ἀθήναιος
 Φιλοναύ-
 το
 Ἀλωπεκ-
 ῆθεν
- 40 Χαιρικλῆ[ς]
 Χαιρεδή-
 μο
 Χαιρέδη-
 μος
- 45 Χαιρεδή-
 μο
 Κολ[^{ca.}]
 s

EPIGRAPHICAL COMMENTARY

The stone is very difficult to read and I have tried to give a careful description of uncertain letters. See also Figure 1. My readings are based on study of the stone itself over a period of about a week in August, 1970 and on squeezes and photographs. These readings were later checked against the stone by J. Breslin, S. G. Miller, and W. K. Pritchett who kindly sent me detailed reports from Athens. Responsibility for all readings, however, remains mine. If I have erred, I hope that it will be on the side of conservatism, for on such a corroded and scarred surface the temptation to read more than is actually on the stone is often strong, especially from the photographs.

The text on the obverse is inscribed in a square checker pattern with units of 0.021 m. Each margin is *ca.* 0.009 m. wide.

Line 2: In the twenty-first stoichos the dim and uncertain outline of sigma can be detected on the squeezes. In the following space only the ends of the top two horizontals of epsilon have survived.

Line 4: Of the last letter only the bottom tip of a centered vertical can be seen.

Line 5: In the twenty-fifth stoichos there may possibly be traces of the upper and lower loops of beta; these show dimly on the squeezes but they are too uncertain to warrant printing even a dotted letter. Since the center of the circular letter in the next space is damaged, it is impossible to choose between theta and omicron. In the twenty-eighth stoichos the only visible mark is a horizontal along the bottom of the space. It is in the correct position for the bottom bar of epsilon, zeta, or xi, but it seems best to interpret this mark as a fortuitous scar; it is not as deeply cut as the letters immediately to the right and it lies in a stoichos whose original surface seems to have been lost.

Line 6: Of the first letter all that survives is the tip of a horizontal stroke in the top right corner of the stoichos. Below it there is a roughly vertical scar which meets the horizontal in such a way as to create the illusion of the top right corner of pi on the photograph. There is a very uncertain vertical depression in the center of the twenty-fifth stoichos which could be the remains of a letter. In the upper right corner of the thirtieth space there is the top of an unattached vertical stroke.

Line 7: In the second letter-space a horizontal stroke survives along the top just above the break. Of the next stoichos only the upper half is preserved; along the left side is the top half of a vertical stroke and to the right of this, part of an oblique stroke can be seen which could be the upper diagonal of kappa or part of the loop of beta or rho. The top of the letter is damaged. Between the sixth and seventh stoichoi there are two neatly cut points of punctuation which appear to be contemporary with the cutting of the inscription.

Line 8: Of the dotted alpha only the right diagonal can be made out; it is followed by the dim outline of a circular letter, theta or omicron.

Line 9: Of the seventh letter only the tip of a diagonal survives in the top right corner of the stoichos, but not enough to permit a clear choice among kappa, sigma, upsilon, or chi. Of the dotted pi in the fourteenth space there remains only a vertical stroke at the left side of the stoichos. In the twenty-sixth stoichos there is the bottom half of a centered vertical; the top of this space is badly worn.

Line 10: The second letter could also be theta since only the dim outline survives. The center of the next letter is damaged. In the twenty-eighth stoichos the outline of a triangular letter can be seen; alpha, delta, or lambda. In the next letter-space only a vertical survives at the left edge: $\dot{\alpha}$ ν is also a possible reading.

Line 12: Of the dotted iota in the eighth space only the bottom third has survived.

Line 13: The sixth letter is probably triangular but only a faint outline is visible. The next letter is either gamma or epsilon; only the top part is preserved. The circular letters in the ninth and twentieth stoichoi may be either omicron or theta.

Line 15: Of the eighth letter only the left diagonal has survived. In the fourteenth stoichos theta is also possible epigraphically since the surface in the center of the letter is gone.

Line 17: Only the dim outline of a triangular letter can be seen in the first space.

Line 18: In the eighteenth stoichos there is the faint outline of a triangular letter; delta and lambda are also possible.

Line 20: Of the dotted nu only the bottom tip of a vertical survives in the lower left corner of the stoichos.

Line 21: There appears to be the top of a centered vertical in the sixth stoichos.

Left Side:

Line 25: Only the right diagonal of the seventh letter has survived.

Line 31: Of the first letter only the bottom third of a centered vertical remains.

Line 32: The surface of the seventh letter-space is slightly damaged but there appears to be the outline of chi.

There seem to have been three different hands at work on the left side. The first mason in lines 24-28 carved smaller, more closely spaced letters, *ca.* 0.011 m. in height, and did not observe stoichedon order. Each name is spaced, however, to occupy the full width of the stone. A second hand was at work in lines 29-34 where the letters are *ca.* 0.015 m. in height and a stoichedon line of eight spaces was observed, except in line 34 where the spacing is closer. The letters in lines 35-48 are considerably larger, *ca.* 0.018 m. in height. They are not placed consistently enough to suggest that a ruled stoichedon grid was used by the mason, although lines 41-46 contain a triple repetition of the same name with identical stoichedon spacing.

There is a marked difference between the lettering on the left side and that on the front of the stele which, together with the variations on the former, suggests that the names were added after the decree on the obverse had already been inscribed.

ΚΛΕΟΒΟΛΟΣ
 ΑΝΔΡΟΓΕΟΣ
 ΑΝΔΡΟΚΛΗΣ
 ΑΝΔΡΟΚΛΕΟΣ
 ΑΦΙΔΝΑΙΩ

 ΛΥΣΑΝΙΑΣ
 ΟΛΥΜΠΙ
 ΠΡΩΝ
 ΛΥΜΠΙΧΟ
 ΚΥΔΑΘΗΝ
 ΕΙΣ
 ΑΘΗΝΑΙΟΣ
 ΦΙΛΟΝΑΥ
 ΤΟ
 ΑΛΩΓΕΚ
 ΗΘΕΝ
 ΧΑΡΙΚΛΗ
 ΧΑΙΡΕΔΗ
 ΜΟ
 ΧΑΙΡΕΔΗ
 ΜΟΣ
 ΧΑΙΡΕΔΗ
 ΜΟ
 ΚΟΛ
 Σ

ΕΔΟΞΕΝΤΗΙΒΟΛΗ
 ΣΕΠΡΥΤΑΝΕΥΕ
 ΕΝΚΑΛΛΙΣΘΕΝΗ ΕΞΤ
 ΕΙΡΕΝΟΠΟΣΟΙΑΘΗΝΑΙΩ Α
 ΛΙΘΑΝΑΤΩΙΕΝΤΗΙΟΛΙΓ
 ΞΕΤΗΙΔΗΜΟΚΡΑΤΙΑΙΤΟΙΣ
 ΞΕΣΙΑΣΕΝ ΑΤΩΜΠΑΤ
 Ο ΟΝΤΟΝΟ ΑΙΩ
 Α ΑΙΤΟΙΣΙ ΞΙΑ
 ΟΛΟΝ ΗΜΕΡΑΣΤ
 ΙΣΟΡΦΑΝΟ ΑΓΟΔΙΔΩ
 ΠΡΥΤΑΝΕ ΟΑΥΤΟΣ
 ΑΓΞΟ
 ΤΗΝΟΣ
 Δ ΜΑΣΤΩΑΥ Ο
 ΔΙΔΟΝΑΙΑΥΤ
 ΑΓΕΡ ΩΝΕΝΤΩΙ
 ΣΕΛΛΗΝΟΤΑΜΙΑΣΤΟ Α
 ΓΕΡΤΟΣΟΡΦΑΝΟ
 ΟΑΘΗΝΑΙΩΙΤΗΜΗ
 ΚΑΙ ΕΡ ΑΥΤΟ
 ΑΙΟΝΕ ΗΡΙ
 ΙΑΝΑ

ΜΩΙΑΝΤΙΟΧ
 ΓΡΑΜΜΑΤΕΥ
 ΙΟΤΙΔΗΣ
 ΟΝΙΑ
 Ο ΟΝΤ
 ΙΤΟΤΩ Ε
 ΑΤΩΝΕ
 ΡΑΓΑΘ
 Ω Ο
 ΑΙΤΟ
 ΤΟΙΝ
 Σ
 Ο

ΜΟΣ

FIG. 1

COMMENTARY

In its original state this stele, complete with its crowning member, must have been a large and impressive monument designed for a text of considerable length. Few fifth-century stelai of this size have survived in complete form, but ironically the re-use of the stone in the Great Drain, to which we owe its preservation, has also caused the obliteration of all but a fraction of its original text. Enough remains, however, to show that we have the beginning of a decree in letters and orthography of the late fifth century. The Ionic alphabet is used consistently, except that omicron stands for *ov*. In the first three lines the opening formula can be recovered in all essentials except for the name of the secretary. Absent is the archon's name which would have exactly dated the decree; it is possible that this once stood above on the crowning member in larger letters like the headings found at the top of other Attic decrees of this period.³ Kallisthenes, the epistates, is too common a name to permit identification, but Theozotides in line 3, who proposed the decree, must be the politician known from *I.G.*, II², 5 and Lysias' fragmentary speech *Against Theozotides* to have been active around the turn of the century.⁴ Unfortunately the preamble provides no more exact criteria for dating.

Theozotides' proposal begins in line 4 in rather more colorful language than that found in most Attic decrees of this period: *ὅποσοι Ἀθηναῖω[ν] ἀ[πέθαν]ον [β]ιαίωι θανάτῳ ἐν τῇ ὀλιγ[αρχίαι β]ο[ρηθ]όντες τῇ δημοκρατίαι.* In the absence of the archon's name, this clause supplies the first clue as to the date of the decree. There are two "oligarchies" ⁵ in the late fifth century during which Athenians died violent deaths while coming to the aid of the democracy: ⁶ that of the Four Hundred in 411 and the rule of the Thirty Tyrants in 404/3. To the contemporary Athenian there would have been no ambiguity. For us the indications in the decree to this point are not decisive enough to exclude either of the two revolutions, although the use

³ Cf. *I.G.*, I², 115; 119; 123; *I.G.*, II², 10; etc.

⁴ For Theozotides *infra*, pp. 296-297.

⁵ This appears to be the earliest example of *ὀλιγαρχία* in an Attic inscription. I have not found it on stone before 362/1 in *I.G.*, II², 112, line 26. The word is restored in line 2 of *I.G.*, I², 101, of 412/11, by D. M. Lewis, *B.S.A.*, XLIX, 1954, pp. 29-31.

⁶ *Δημοκρατία* apparently appears here for the first time on stone in fifth-century Athens. For the *A.T.L.* restoration of *καὶ δημο[κρατίαν]* in line 48 of *I.G.*, I², 14/15 see R. Meiggs, D. Lewis, *A Selection of Greek Historical Inscriptions*, Oxford, 1969, p. 123.

Both *δημοκρατία* and *ὀλιγαρχία* are attested, however, in contemporary documents such as the rider of Kleitophon, Aristotle, *Ath. Pol.*, 29, 3; the decree of Demophantos, Andokides, I, 96; the decree of Patrokleides, *idem*, I, 78; and a law, *idem*, I, 87. *Demokratia* and *Oligarchia* were depicted on the gravestone of Kritias, Schol. Aischines, I, 39. Such official usage, now bolstered by the new examples on stone, sheds interesting light on *Quellenforschung* like that of F. Jacoby on Aristotle, *Ath. Pol.*, 38, "the rhetorical character of the source is apparent in the concluding praise of *οἱ περὶ Ἐπίωννα*, who *λαβόντες τὴν ἐπιμέλειαν ἐν ὀλιγαρχίᾳ, τὰς εὐθύνas ἔδοσαν ἐν δημοκρατίᾳ.*" *F.G.H.*, III b, Supplement, Androtion, no. 324, Fr. 10-11.

of the Ionic alphabet favors slightly the later date. In seeking the correct setting we must examine the content of the decree.

The orator is at pains to emphasize that he is exclusively concerned with *Athenians* who died during the oligarchy and the names on the left side, which presumably are those of some of the beneficiaries of the decree, have patronymics and demotics added in each case. This suggests that there were others, non-Athenians, who died in the cause of the democracy.

Under the Four Hundred several Athenians were put to death,⁷ including Androkles⁸ and Hyperbolos, and there were some Samians also who fell at the hands of their oligarchic countrymen in Samos.⁹ It is doubtful, however, that Theozotides would have felt the need explicitly to exclude the latter. Moreover, if the restoration $[\beta]\phi[\eta\theta]\delta\nu\tau\epsilon\varsigma$ is sound, we might ask if the participle accurately describes the activity of the Athenian victims of the Four Hundred who seem to have been singled out for liquidation by the oligarchic gangs. Were they really "coming to the aid of the democracy" in the sense required by the context of $[\beta]\phi[\eta\theta]\delta\nu\tau\epsilon\varsigma$ in this decree?

The same objection might be raised against the victims of the Thirty Tyrants who, we are told, numbered as many as 1,500.¹⁰ Although in this case several metics were executed whose sons Theozotides might have wished to exclude from the benefits of his decree, most of the victims of the Thirty, like those of the Four Hundred, could hardly be said to have lost their lives while "coming to the aid of the democracy."

There was a mixed group of Athenians, metics, foreigners, and slaves, however, some of whose members did suffer violent death under the oligarchy while fighting for the democracy, viz. Thrasyboulos' followers who captured Phyle in the winter of 404/3 and later joined other defenders of the democracy in the Peiraieus. A number of these men fell in battles fought against the oligarchic forces at Mounychia,¹¹ against the Ten near Athens,¹² and against Pausanias and the Spartans in 403. The total number of democratic casualties is not known but 180 dead are recorded by Xenophon in the encounter with Pausanias.¹³ Xenophon, *Hellenika*, II, 4, 25, Aris-

⁷ Thucydides, VIII, 65-66; Lysias, XX, 8-9.

⁸ This prominent figure is not to be identified with the Androkles of Aphidna whose sons head the list on the left side of our stele, for he seems to have been $\Pi\lambda\tau\pi\epsilon\upsilon\varsigma$; Kirchner, *P.A.*, no. 870.

⁹ Thucydides, VIII, 73-74.

¹⁰ The names of at least thirteen victims of the Thirty are preserved in the speeches of Lysias and in Xenophon's *Hellenika*. The figure of 1500 victims is found in Isokrates, VII, 67; Aischines, III, 235; Aristotle, *Ath. Pol.*, 35, 4; cf. also Diodoros, XIV, 5, 6 who adds that sixty of the wealthiest metics were executed by the Thirty.

¹¹ Xenophon, *Hell.*, II, 4, 10-24; Aristotle, *Ath. Pol.*, 38, 1; Diodoros, XIV, 33, 2.

¹² Xenophon, *Hell.*, II, 4, 24-26.

¹³ *Ibid.*, II, 4, 31-35. Not all of those who fell on the democratic side in these engagements were full Athenian citizens as *ibid.*, II, 4, 25 makes clear. Nor would all of them have been survived by sons who were minors. For state-burial of the *xenoi* who fought against the Thirty, Lysias, II, 66.

total, *Ath. Pol.*, 40, 2, and *I.G.*, II², 10 all show clearly that foreigners, slaves, and metics fought at the side of full Athenian citizens against the oligarchs; there is thus a clearly identifiable group whose exclusion Theozotides could have made explicit by the insertion of Ἀθηναίων in line 4. There is also evidence that the status of these metics and slaves was debated in the early months of the newly restored democracy in 403/2. Lysias' fragmentary speech *Against Theozotides* supplies, as we shall see, additional evidence that the orator did in fact limit to the sons of Athenian citizens the public support for orphans of those killed in war. It seems best on these grounds, therefore, to identify the "oligarchy" in line 5 as that of the Thirty Tyrants and their successors, the Ten.

In line 6 I have restored [παισ]ί on the basis of line 9 and in the latter ἀ[πάντων] τ[ότ]ω[ν] seems possible in view of τóτω[ν] of line 6.¹⁴ A verb is required between these two occurrences of "the sons" and the traces at the beginning of line 9 permit the restoration of an infinitive ending in -σαι. Perhaps the most plausible restoration would be [μερί]σαι followed appropriately by the dative and the sum of one obol per day.¹⁵ The syntax, with the repetition of τοῖς παισί, is remarkable but not obscure.

In line 7 the eccentric two-dot punctuation does not occupy a stoichos; it is not, therefore, similar to τ:::ούτον in *I.G.*, I², 76, line 58 or λόπος ἂν δοκεῖ:::δέμοι τῷ[ι] Ἀθηναίῳν πλε[θύνοντι] in *I.G.*, I², 114, line 44.¹⁶ Perhaps the closest parallel in the fifth century is Meiggs-Lewis, *G.H.I.*, no. 53, line 5, κεφάλαι:ον:, but this error is easier to understand since the two-dot punctuation is used throughout this text. (I owe this reference to D. M. Lewis.)

Theozotides' concern, then, is with the sons of those who suffered violent death in the oligarchy. In return for the loyalty and bravery of their fathers they are to receive from the state an obol per day.

The orphans to whom Theozotides decreed this obol per day are designated as οἱ παῖδες; the word ὀρφανοί is not used until lines 10-11 where it appears in the dative case with ἀποδίδω[σιν], closely followed by the Prytaneion. It is possible that τοῖς ὀρφανο[ῖς] is an exact equivalent of τοῖς π[α]ισί in lines 6 and 9 and that something like [καὶ ὅπως] ἂν τοῖς ὀρφανο[ῖς] ἀποδιδῶ[σιν] is to be restored. In view of [κα]θά-περ [τ]ῶν ἐν τῷ [πολέμῳ?] in lines 16-17 and [καθά]περ τὸς ὀρφανό[ς] in line 19, however, it seems preferable to regard "the orphans" in lines 10-11 as distinct from the sons of those who died in the oligarchy. In making arrangements for the latter Theozotides seems to have referred to the orphans of war-dead, perhaps as a model. In line 10 an acceptable restoration would then be [καθάπερ] δὲ τοῖς ὀρφανο[ῖς]

¹⁴ I am indebted to B. D. Meritt, J. Breslin, and E. Vanderpool for suggested restorations in line 9.

¹⁵ Cf. *I.G.*, II², 29, lines 18-21, μερίσαι δὲ τὸ ἀργύριον τὸ εἰρημένον τὸς ἀποδέκτας ἐκ τῶν καταβαλλομένων χρημά[τ]ων.

¹⁶ D. M. Lewis, *J. H. S.*, LXXXVII, 1967, p. 132; H. B. Mattingly, *Atti del I Convegno del Centro Internazionale di Studi Numismatici*, Supplement to *Annali*, XII-XIV, 1969, p. 215, note 47.

ἀποδίδω[σιν . . . ἑκ] τῷ Πρυτανεί[ο]; the beneficiaries of the decree are to receive an obol per day just as the war-orphans are paid their obol.

It might be useful at this point to summarize briefly what is known about public support of war-orphans at Athens. It was an old institution which was well-established by the time of Pericles' funeral oration, Thucydides, II, 46, οἱ θαπτόμενοι τὰ μὲν ἥδη κεκόσμηται, τὰ δὲ αὐτῶν τοὺς παῖδας τὸ ἀπὸ τοῦδε δημοσίᾳ ἡ πόλις μέχρι ἡβῆς θρέψει. Its origins, however, are obscure. Diogenes Laertios' attribution of public support for war-orphans to Solon has naturally been rejected by some scholars but there is no contradictory ancient evidence.¹⁷ In view of Solon's concern for the preservation of the Athenian οἴκοι and the certain evidence that his first axon instructed the archon to provide food for widows and orphans, excessive scepticism is unjustified.¹⁸

The practice was known in the period *ca.* 478-462, for Aristotle, *Ath. Pol.*, 24, 3, mentions state support of orphans as one of Athens' regular expenses at this time. His evidence is in accord with the earliest explicit mention of war-orphans in Athens in *I.G.*, I², 6 + 9 = F. Sokolowski, *Lois sacrées des cités grecques*, Paris, 1962, p. 13, no. 3, C, lines 38-42, where τῶν [ὁ]ρφ[ανῶν] and τὸς ὀρφανὸς παῖ[δας] are given privileges in the celebration of the Eleusinian Mysteries about the middle of the fifth century. Although no defining phrase is added, editors are probably right in identifying "the orphans" as war-orphans supported at public expense.

The ancient testimonia are unanimous in defining the term of public support as extending μέχρι ἡβῆς.¹⁹ On coming of age the orphans were supplied with a suit of

¹⁷ *Vitae Philosophorum*, I, 55. E. Ruschenbusch, *Σόλωνος Νόμοι, Historia, Einzelschriften IX*, 1966, pp. 43-44, sees a close connection between the origins of the law about war-orphans and of the law about the annual funeral oration over the dead in war. The latter is attributed to Solon by the scholiast on Thucydides, II, 46, but Diodoros, XI, 33 and Dionysios of Halikarnassos, V, 17, 3 show that it originated *ca.* 479 and this date is to be preferred; see E. Vanderpool, *Δελτ.*, XXIV, 1969, *Μελέται*, pp. 1-5.

But is there a necessary connection between the *origins* of these two laws? Public support for those disabled in war is attested under Peisistratos, Plutarch, *Solon*, 31 = Herakleides Ponticus, fr. 149 (Wehrli). Jacoby's rejection of this evidence seems to me particularly hypercritical; *F.G.H.*, III B, Supplement, Philochoros, no. 328, F. 197. Paradoxically, Ruschenbusch cites Aristotle, *Politics*, II, 1268 a 8 as evidence "dass das betreffende Gesetz frühestens in der Zeit des Perikles erlassen worden ist," but there is nothing in this passage to suggest such a conclusion. The best general treatment of public support of war-orphans at Athens is still that of O. Schulthess, *Vormundschaft nach attischem Recht*, Freiburg, 1886, pp. 4-44.

¹⁸ Harpokration, *Suda Lexicon, s.v. σῆτος*; Photios, p. 514 ed. Porson = Ruschenbusch, *op. cit.*, p. 65, T 10 = A. Martina, *Solone*, Rome, 1968, p. 248, no. 494. On the text of these references to the first axon of Solon see R. Stroud, *Drakon's Law on Homicide: University of California Publications: Classical Studies*, III, Berkeley and Los Angeles, 1968, p. 32, note 10. Aristotle, *Ath. Pol.*, 56, shows that the σῆτος which is cited from the first axon of Solon was not necessarily that of war-widows and war-orphans.

For Solon's concern with the preservation of the Athenian οἴκοι see W. K. Lacey, *The Family in Classical Greece*, London, 1968, pp. 84-99, with the testimonia and earlier literature cited there.

¹⁹ Kratinos, fr. 171, Edmonds = *Suda Lexicon, s.v. ἀμύναντο*; Thucydides, II, 46; Lysias,

armor by the state and presented to the assembled Athenians and their allies at the Dionysia in a grand ceremony in the orchestra. The herald read a proclamation calling out each young man's name and patronymic and then the orphans were sent away each to his own home.²⁰

Only two ancient sources designate the magistrate who was responsible for war-orphans: Plato, *Menexenos*, 248 e, where they are entrusted to ἀρχῇ ἥπερ μεγίστη ἐστίν; and Scholiast on Demosthenes, XXIV, 20 where the polemarch is named. Some have felt that the author of the *Menexenos* had the polemarch in mind when he used his periphrasis; for support they have adduced the polemarch's supervision of the *epitaphia* for those killed in war.²¹ Others have argued that the μεγίστη ἀρχή can only refer to the archonship and that the Demosthenic scholion is in error.²² The fact that Aristotle makes no mention of this duty while listing the functions of the polemarch in *Ath. Pol.*, 58 cannot be regarded as decisive since public support of war-orphans was a thing of the past when he described the state of the Athenian Constitution as it was in his own day.²³ It may be significant, however, that it was the archon who was responsible for all legal matters concerning orphans, *epikleroi*, and guardians. If, as I have argued, there is no necessary connection between the origins of public support for war-orphans and the *epitaphia*, the former might well have been assigned to the archon who was, at least for Solon, the most important magistrate.²⁴

Another much-discussed reference to officials in charge of orphans appears in Xenophon's *Poroi*, II, 7 where the author recommends the institution of μετοικοφύ-

Against Theozotides, fr. 6, 35-40, ed. L. Gernet, M. Bizos (Budé), Paris, 1962; Plato, *Menexenos*, 248 e; Aischines, III, 154; Aelius Aristides, *Panath.*, vol. I, p. 310, 8 ed. Dindorf.

²⁰ Lysias, *Against Theozotides*, quoted *infra* p. 299; Plato, *Menexenos*, 248 e; Isokrates, VIII, 82; Aischines, III, 153-155; cf. the Rhodian law in Diodoros, XX, 84, 3, τοὺς δ' υἱοὺς ἐν ἡλικίᾳ γενομένους ἐν τῷ θεάτρῳ στεφανῶσαι τοῖς Διονυσίοις πανοπλῖα; Lesbos, *Protreptikos*, I, 19; Aelius Aristides, *Panath.*, vol. I, p. 310, 8 ed. Dindorf. The wording of the κήρυγμα in Aischines is remarkably close to that found in Lysias' *Against Theozotides*.

²¹ Pollux, VIII, 91; J. H. Lipsius, *Das Attische Recht und Rechtsverfahren*, I, Leipzig, 1905, p. 64; G. Busolt, H. Swoboda, *Griechische Staatskunde*, II, Munich, 1926, pp. 1093-1094; A. Dorjahn, *R.E.*, s.v. ὀρφανοί, col. 1199; G. Mathieu, *Mélanges offerts à A.-M. Desrousseaux*, Paris, 1937, pp. 315-316.

²² O. Schulthess, *op. cit.*, pp. 23-24.

²³ This is clear from Aischines, III, 153-155 and is possibly implicit in Isokrates, VIII, 82, παρεισῆγον, and Hypereides, *Epitaphios*, 42. For attempts to connect the demise of this practice with the origins of the epehebeia see A. A. Bryant, *H.S.C.P.*, XVIII, 1907, pp. 87-88; G. Mathieu, *op. cit.*, pp. 311-318; and the criticism of Ch. Pelekides, *Histoire de l'éphébie attique (Travaux et Mémoires, École Française d'Athènes, XIII)*, Paris, 1962, pp. 14-17.

²⁴ As far as we can tell, the laws to be administered by the archon stood first in the Solonian code, see R. Stroud, *Drakon*, pp. 32-33. That his office was the μεγίστη ἀρχή in the sixth century seems clear from Aristotle, *Ath. Pol.*, 13, 2; Thucydides, VI, 54, 6; see the good discussion of this point by W. K. Lacey, *op. cit.*, p. 90. The archon's duties, as described in *Ath. Pol.*, 56, are much more numerous and important than those of the polemarch. Cf. *Ath. Pol.*, 3, 3. It is difficult to see how the latter could have been called the μεγίστη ἀρχή in Plato's day.

λακες as magistrates just like the ὀρφανοφύλακες. It has been suggested that the latter term designated specific Athenian magistrates²⁵ similar to the ὀρφανισταί known in other Greek cities²⁶ and a passage in the Suda Lexicon can be cited in support of this view, *s.v.* ὀρφανιστῶν: ὀρφανισταί εἰσιν οἱ τοὺς ὀρφανοὺς τρέφοντες, ἢ ὀρφανισταί, ἀρχὴ Ἀθήνησι τὰ τῶν ὀρφανῶν κρίνουσα. Since, however, ὀρφανισταί or ὀρφανοφύλακες are otherwise unattested at Athens and since there is abundant evidence that the ἀρχὴ which τὰ τῶν ὀρφανῶν κρίνουσα was that of the Archon,²⁷ it has also been argued that this official and his two paredroi could have been regarded as the “protectors of the orphans,” although the term may not have been in official use. J. H. Thiel, however, plausibly suggested that the ὀρφανοφύλακες were responsible only for the care of war-orphans and that they held an intermediate position between the Archon and the guardians, seeing to it that the dole was properly used for the support of the war-orphans. The absence of any reference to ὀρφανοφύλακες later than Xenophon’s *Poroi* would not then be surprising since the office would have disappeared when public support for war-orphans was discontinued sometime in the mid-fourth century.

There is no literary evidence for the amount of τροφή paid to the war-orphans but if our line 10 is correctly restored, the regular payment would have been an obol per day, which is equivalent to the daily allotment of the ἀδύνατοι at the end of the fifth century.²⁸

To return to our decree, the context of lines 11-12, [καθάπερ] δὲ τοῖς ὀρφανο[ῖς] ἀποδίδω[σι. . . .¹⁰. . . .] το Πρυτανεῖ[ο. . . .], makes it difficult to imagine the Prytaneion here in its normal role of public banquet hall i.e. καλέσαι ἐς τὸ Πρυτανεῖον ἐπὶ δείπνον *vel* ἐπὶ ξένια or εἶναι τὴν σίτησιν τὴν ἐμ Πρυτανείῳ etc. The preserved letters do not permit a choice between the genitive or the accusative case, so that [ἐς] τὸ Πρυτανεῖ[ον] is possible, but it is perhaps better to regard these words as genitives and to look for the subject of the verb ἀποδίδω[σι] in the space immediately following it. If this clause contained a reference to the magistrate who made the payment, ἀποδίδω[σιν ὁ ἄρχων ἀπὸ] τῷ Πρυτανεῖ[ο] might be a possible supplement, but in view of the content of lines 16-18 (*infra* pp. 292-295) this seems unlikely. If, on the other hand, the reference is to a previous ordinance, ἀποδίδω[σιν ὁ νόμος ὁ ἐκ] τῷ Πρυτανεῖ[ο] might serve. The presence of the Prytaneion in either case is, I think, to be explained by the connection of this building with orphans who received public support such as

²⁵ H. Bolkestein, *Wohltätigkeit und Armenpflege im Vorchristlichen Altertum*, Utrecht, 1939, pp. 276-279. See also J. H. Thiel, *Ξενοφῶντος Πόροι*, Vienna, 1922, pp. 46-47, which was brought to my attention by D. M. Lewis.

²⁶ On these magistrates see Bolkestein, *loc. cit.*; L. Robert, *R.E.G.*, LXVIII, 1955, p. 243; R. F. Willetts, *The Law Code of Gortyn*, *Kadmos* Supplement, I, Berlin, 1967, pp. 27, 32, 79.

²⁷ Testimonia and discussion in O. Schulthess, *op. cit.*, pp. 4-12; J. H. Lipsius, *Das Attische Recht*, pp. 520-537; G. Busolt, H. Swoboda, *Gr. Staatskunde*, II, pp. 1082-1086; A. R. W. Harrison, *The Law of Athens*, Oxford, 1968, pp. 97-121.

²⁸ Lysias, XXIV, 26. In Aristotle’s day the dole had been increased to two obols per day, *Ath. Pol.*, 49, 4. For other testimonia and discussion, F. Jacoby, *F. G. H.*, III B, Supplement, Philochoros, no. 328, F. 197.

the daughters of Aristeides who were given a dowry and married with ἐγγύησις ἐκ τοῦ Πρυτανείου.²⁹

Line 15, δ[οκι]μασάτω αὐ[τ]ῷ[ς], contains a clear reference to a scrutiny of the sons of those who died in the oligarchy. Perhaps the criteria of qualification were listed in lines 13-14. In the case of war-orphans evidence for *dokimasia* is poor and of little help. There must have been an initial scrutiny to determine that an orphan's father had died in war and that he had been an Athenian citizen. Evidence for an annual "means test," however, such as that given to the ἀδύνατοι, is lacking and, as W. G. Forrest has observed, "an orphan could not cease to be an orphan."³⁰ Since normal orphans underwent a *dokimasia* when they came of age to determine that they were capable of taking up their patrimony,³¹ war-orphans probably were put through a similar examination before they received their panoply and were sent home. Theozotides, however, in initiating public support for the sons of those who fell in the oligarchy, probably was concerned with the initial *dokimasia* in line 15.

In the case of the war-orphans there is no clear evidence as to which magistrate or body carried out the scrutiny.³² Although the subject of δ[οκι]μασάτω is clearly singular, restoration, therefore, remains uncertain. We may be sure, however, from the insertion of Ἀθηναίων in line 4, from the addition of patronymic and demotic to each of the names on the left side, and from Lysias' fragmentary speech *Against*

²⁹ Plutarch, *Aristeides*, 27. Presumably the archon would have been in charge of this operation. When Aristeides' son died he left behind an orphan girl, Polykrite, who was maintained at public expense on the same scale as Olympic victors, presumably at the Prytaneion.

³⁰ *Klio*, LII, 1970, p. 113, note 6. Forrest is discussing [Xen.], *Ath. Pol.*, 3, 4, πρὸς δὲ τοῦτοις ἀρχὰς δοκιμάσαι καὶ διαδικάσαι καὶ ὄρφανους δοκιμάσαι καὶ φύλακας δεσμωτῶν καταστήσαι. ταῦτα μὲν οὖν ὅσα ἔτη. E. Kalinka had argued from this passage that the Boule must have examined the orphans annually, *Die Pseudoxenophontische Ἀθηναίων Πολιτεία*, Leipzig and Berlin, 1913, pp. 283-284. In holding that war-orphans underwent only an initial *dokimasia* Forrest claims "novelty value" for such scrutinies in 432, 431, and 426. Neither of these positions seems tenable, for, as the reference to ἀρχὰς δοκιμάσαι makes clear, the orphans who are examined each year need not have been the same orphans; there was always a new crop of orphans to examine each year just as there was always a new group of magistrates. Moreover, it is not certain that the reference here is to war-orphans since ordinary orphans were examined before being released from guardianship when they came of age and there must have been some of these young men coming up for scrutiny each year.

Even if an annual "means test" was not compulsory, there may have been war-orphans who did not collect their daily obol, just as was probably the case with the *diobelia*. This may have been true of Alkibiades, whose father seems to have amply provided for him in his will, and of the children of Diodotos, who was killed at Ephesos in 409; see Lysias, XXXII, where in the detailed accounts for the upkeep of his orphan sons no mention is made of state support. Cf. also Lysias XVIII, 22.

There is no evidence to connect the *dokimasia* carried out by the *dikastai* in Aristophanes' *Wasps*, 578 with the war-orphans; see D. M. MacDowell's good note, *Aristophanes, Wasps*, Oxford, 1971, p. 210. For the *dokimasia* of the ἀδύνατοι see Lysias, XXIV.

³¹ Lysias, XXXII, 24; Bekker, *Anec. Gr.*, I, p. 235, 11.

³² Schulthess, *op. cit.*, pp. 37-38 and Kalinka, *loc. cit.*, favored the *dikastai* under the chairmanship of the archon or polemarch; K. I. Gelzer and others have suggested the Boule, *Die Schrift vom Staate der Athener, Hermes, Einzelschriften* III, 1937, p. 38.

Theozotides, to be discussed presently, that legitimate birth and descent from two Athenian citizens were thoroughly tested before the boys could qualify for their obol.

The words *διδόναι αὐτ[οῖς]* in line 16 probably belong to a clause in which the orator mentions payment of the dole to the sons of those who fell under the oligarchy. Since in lines 9-10 the amount is specified, it is not clear why *Theozotides* returns to the subject here. If, however, no mention was made of the disbursing officer in lines 9-10 and if, as seems certain, the financial administration under the newly restored democracy was considerably altered, *Theozotides* may have wished to specify how the boys were to be paid. The text, however, is too poorly preserved at this point to permit identification of the subject of *διδόναι*.

In line 17, after an interval of only fifteen letters, it seems that there is another citation of the practice followed in the case of war-orphans, *[κα]θάπερ [τ]ῶν ἐν τῷ [πολέμῳ]*.³³ Are the boys to be paid just as the war-orphans are paid, presumably by the same officers? This seems to me unlikely since lines 9-11 say more or less the same thing. The clue, I think, is to be found in the next line where the reading *[τὸ]ς Ἑλληνισταμίας* is certain.

The presence of the *Hellenotamiai* is at first glance surprising if the decree belongs to 403/2 or slightly later, since there is no other evidence that this board survived the end of the Peloponnesian War and the regime of the Thirty. Unfortunately, the context in which they appear is so fragmentary that their exact function in *Theozotides*' decree remains a matter of inference. Since, in addition to their responsibility for the tribute, the *Hellenotamiai* are found making numerous and varied payments in fifth-century financial inscriptions, a possible explanation of their presence in line 18 is as paymasters of the obol dole.³⁴ Some slight evidence for connecting the *Hellenotamiai* with the war-orphans is provided by Isokrates, VIII, 82-83, who describes the annual display of the tribute in the theater at the City Dionysia, which was presumably supervised by the *Hellenotamiai*.³⁵ At the same time, Isokrates

³³ *Τελευτησάντων, τετελευτηκότων, ἀποθανόντων* etc. may have been added but that they are not necessary is shown by the prize dedications recently published by E. Vanderpool, *Ἀθλα ἐπὶ τοῖς ἐν τῷ πολέμῳ*, Δελτ., XXIV, 1969, Μελέται, pp. 1-5.

³⁴ A close parallel is provided by the payment of the *diobelia* by the *Hellenotamiai*; *I.G.*, I², 304, A, lines 10-14, 22, 23; 304, B, lines 42-65, 74; A. M. Woodward, *Hesperia*, XXXII, 1963, p. 153, A, line 11 and B, line 1, both restored *in toto*. See also Meiggs-Lewis, *G.H.I.*, p. 260. The *diobelia* also occurs in an uncertain context in fr. d, line 96 of Lysias, *Against Theozotides* (*infra*, note 47).

It may be possible to identify the payments *ἐς τὸν ὀβολόν*, which the *Hellenotamiai* make in *I.G.*, I², 304 B, lines 78-87, with the regular dole for the war-orphans. This designation, however, is too vague to permit certainty, especially in view of the obol dole distributed also to the *ἀδύνατοι* and the *ὀβολὸς ἡλιαστικός*. For another identification of this obol see W. K. Pritchett, *The Choiseul Marble: University of California Publications: Classical Studies*, V, Berkeley and Los Angeles, 1970, p. 117.

³⁵ Schol. Aristophanes, *Acharnians*, line 504. See also A. E. Raubitschek, *T.A.P.A.*, LXXII, 1941, pp. 356-362.

observes, *παρεισῆγον τοὺς παῖδας τῶν ἐν τῷ πολέμῳ τετελευτηκότων, ἀμφοτέροις ἐπιδεικνύοντες τοῖς μὲν συμμάχοις τὰς τιμὰς τῆς οὐσίας αὐτῶν ὑπὸ μισθωτῶν εἰσφερομένης, τοῖς δ' ἄλλοις Ἑλλήσι τὸ πλῆθος τῶν ὀρφανῶν καὶ τὰς συμφορὰς τὰς διὰ τὴν πλεονεξίαν ταύτην γιγνομένας.*³⁶ This passage, though suggestive, does not, of course, prove the connection of the Hellenotamiai with the war-orphans.

If these officials did serve as paymasters for the obol dole, there would seem to be three possible explanations of their presence in line 18: (1) they are an active board at the time of Theozotides' decree, which thus provides the first evidence for Hellenotamiai after 404; (2) they are an active board for which no other evidence exists after 404; therefore the decree itself must be earlier than this date and the "oligarchy" in line 5 must be that of the Four Hundred; (3) they are a defunct board which prior to 404 served as paymasters for the war-orphans and to which Theozotides makes direct reference at this point in his decree of 403/2 or slightly later.

The first of these hypotheses is weakened by the fact that if the Hellenotamiai are actually in existence at the time of the decree and are paying the obol, they are separated in the text from the crucial words *διδόναι αὐτ[οῖς]* of line 16 by the awkward clause in line 17, *[κα]θάπερ [τ]ῶν ἐν τῷ [πολέμῳ]*. We might have expected them, as subject of the infinitive, to have been placed before or after *διδόναι*.

Secondly, in view of the total lack of evidence for Hellenotamiai after 404, we should be reluctant to claim line 18, with its uncertain context, as the one contradictory testimonium. Nor is the argument exactly one from silence. In the first of three decrees honoring the Samians for their loyalty to Athens at the end of the Peloponnesian War, the Hellenotamiai are instructed to pay for the stele which was authorized in the archonship of Alexias, 405/4, whereas in the third decree of 403/2, which is inscribed below on the same stele, this function is taken on by the Treasurers of Athena.³⁷

The second hypothesis is open to the same objection as the first, viz. the separation of the officials from the instructions *διδόναι αὐτ[οῖς]* in line 16. Also, in the discussion of "oligarchy" (*supra*, p. 286) we have seen that events in 411 do not exactly square with the situation to which Theozotides' decree appears to respond. Treatment of the sons of those who died fighting for the democracy is assimilated to that of the war-orphans presumably because the fathers of both groups fell in roughly similar circumstances. This does not seem to have been true of the victims of the Four Hundred. Finally, as we shall see presently, the fragmentary speech of Lysias,

³⁶ The words *τὸ πλῆθος τῶν ὀρφανῶν* raise the interesting question whether all the orphans receiving public support appeared annually in the orchestra or only those who in a given year received their panoply and were sent home.

³⁷ *I.G.*, II², 1; Tod, *G.H.I.*, I, no. 96; Meiggs-Lewis, *G.H.I.*, no. 94 (the first decree only). For Hellenotamiai (restored) in 404/3, A. M. Woodward, *Hesperia*, XXXII, 1963, pp. 144-155, no. 1.

Against Theozotides, provides clear evidence that his concern with the orphans is to be dated after the restoration of democracy in 403/2.

There remains the third hypothesis which may be expanded as follows. If in line 16 the words *διδόναι αὐτ[οῖς]* refer to the payment of the *τροφή* to “the sons,” then the concern of the orator is presumably with the method of payment, since the amount has already been given in line 10. The official(s) who are to pay the obol ought, therefore, to be restored either immediately before or after *διδόναι αὐτ[οῖς]*. In line 17 there appears to be another citation of the procedure for dealing with war-orphans, which possibly serves as a model, as in line 10. Because of its proximity to *διδόναι αὐτ[οῖς]* this *καθάπερ* clause might well contain information about how the war-orphans were paid. Theozotides may simply be instructing the official(s) who paid the war-orphans to pay “the sons,” in which case the *καθάπερ* clause would come to an end before it reaches the end of line 17. The Hellenotamiai, in the accusative case, would then belong to the beginning of the next sentence, for which the context is missing. It is also possible, however, that the Hellenotamiai belong to the end of the *καθάπερ* clause and that they appear in the accusative case in parallel construction to the now lost subject of the infinitive *διδόναι* of line 16. “The sons” are to be paid by some unknown official(s) just as the Hellenotamiai paid the sons of those who fell in the war. This is, of course, pure conjecture and we must not forget that in the lines under discussion considerably less than half the original letters are preserved on the stone. In the absence of other evidence we can never recover the exact wording, but it is possible to suggest an interpretation of the Hellenotamiai in line 18 which requires neither their survival after 404 nor the attribution of our decree to some date earlier than the rule of the Thirty.

The war was now over and, as far as we can tell, the Hellenotamiai did not survive its end. If, as seems possible, they had paid the war-orphans before 404, Theozotides’ reference to them in establishing procedures for rewarding “the sons” is perhaps explicable. He is dealing with a new situation. “The sons” are not exactly war-orphans, otherwise there would have been no need for his decree. In assimilating treatment of “the sons” to that of the war-orphans he found that the former paymasters were no longer in existence. New ones had to be designated, and I suggest that Theozotides, after naming them in lines 15-16, went on to cite the precedent of the now-defunct Hellenotamiai in the *καθάπερ* clause in lines 16-18.

As an illustration of this argument the following outline may be suggested.

| | | |
|----|--|------------------------|
| | | <i>τροφήν δὲ ἀπο]-</i> |
| | | <i>τήν δὲ τροφήν]</i> |
| 15 | <i>δ[οκι]μασάτω αὐ[τ]ὸ[ς ἡ βολή.</i> | <i>τὸν δὲ ὀβολὸν]</i> |
| | official(s) | |
| | <i>διδόναι αὐτ[οῖς]¹⁵ κα]</i> | <i>θ-</i> |

17 ἀπερ [τ]ῶν ἐν τῶι [πολέμῳ τοῖς ὀρφανοῖς τ]-
[δ]ς Ἑλληνοταμίας. τὸ[ς] δ[ἐ]-----

Where so much is lost no restoration can be regarded as secure. Mine is one letter too long in line 17 and I offer it only as an illustration.³⁸

The identity of the new paymasters remains uncertain. In *I.G.*, II², 1, of 403/2, the Tamiai take over responsibility for payments previously made by the Hellenotamiai. We might then restore τὸς ταμίας τῆς θεῶ in the fifteen letter-spaces of line 16 but it is possible that some other official connected with the Prytaneion may have been designated.

In line 20 the reading THMH is certain. A mason's error, therefore, is possible; perhaps τ<ι>μῆ[ματα], a reference to the assessment of taxes from which orphans were exempt?³⁹ Cf. Lysias, XXXII, 24.

A possible restoration in line 21 would be [ὁ] αὐτὸ[ς νό[μος].

I have been unable to identify any letters below line 23 on the poorly preserved obverse face. The writing on the left side, however, and the size of the stele suggest that the front was completely inscribed. Moreover, if the names on the left side are those of the beneficiaries of the decree, there are surely too few of them; only four fathers are listed. All those (ὀπόσοι) who suffered violent death in the oligarchy and whose sons are now cared for must have been more numerous. Their names, therefore, probably stood on the obverse of the stele below the decree; the names on the left side would then have formed the end of the list, perhaps added later as the variations in letter-forms and spacing suggest. Contemporary parallels for the combination of a decree and list of names exist in the stele honoring the heroes of Phyle⁴⁰ and in *I.G.*, II², 10,⁴¹ which granted limited rights of citizenship to numerous metics who fought against the Thirty.

Since the end of the decree is not preserved, calculation of the space available for names must remain very inexact. From the bottom of line 23 to the preserved bottom of the stele is 1.00 m. When *ca.* 0.10 m. are subtracted for insertion into the base, *ca.* 0.90 m. of surface remain. If the decree ended in line 23 and if the same letter-size and vertical spacing were used for the names as in the decree, there would have been room for forty-two lines below line 23. If the same horizontal checker-unit was retained, an arrangement of names into three columns might be postulated. As the left side shows, each name of an orphan is accompanied by a patronymic and

³⁸ It is *possible*, of course, to restore τὸς Ἑλληνοταμίας in the fifteen letter-spaces of line 16. The same words in line 18 would then be redundant and ought not to belong to the καθάπερ clause. In line 18 B. D. Meritt has suggested τὸ[ς] α[ιεί] as a possible restoration.

³⁹ I owe this suggestion to H. B. Mattingly.

⁴⁰ A. E. Raubitschek, *Hesperia*, X, 1941, pp. 284-295.

⁴¹ On the physical characteristics of this stele, which has the same thickness as Agora I 7169, see Daphne Hereward, *B.S.A.*, XLVII, 1952, pp. 102-117.

demotic thus forming a three-line unit. There would be room on the front face for forty-two of these units which, added to the names on the left side, would yield a total of forty-six fathers who fell in the oligarchy.

This must remain, however, as a very tentative estimate not only because the end of the decree is not preserved but also because the three-line unit is an inexact measuring-stick. Three of the four fathers who appear on the left side were survived by more than one son. In such cases the patronymic is repeated although only one demotic is used. There must surely have been similar instances on the front which would considerably reduce the estimated total of forty-six fathers.

A further weakness in the above calculations is the assumption that the same spacious checker pattern was employed for both decree and list of names. This clearly was not so in the parallel *I.G.*, II², 10 and a much smaller and more convenient spacing for the proposed columns of names may have been employed on the front of Theozotides' stele. Analogies from the letter-size and spacing on the left side are dangerous if, as seems likely, these names were later additions.

From this lengthy discussion only two conclusions clearly emerge: the likelihood that the obverse carried a list of names below the decree and the very inadequate grounds we have for calculating the length of that list. No chronological deductions can be made from the list which would shed light on the interpretation of "the oligarchy" in line 5. Nor, as far as I can discover, do the names on the left side provide any certain clues. A few prosopographical notes are here added.

Lines 25-27: The name Androkles is attested in Aphidna in 323/2, *I.G.*, II², 1632, lines 238-239.

Line 29: For the name Lysanias Kydathenaieus see *S.E.G.*, XXIII, 87, line 50, ca. 400-375. The name is also found without demotic in an early fourth century list of a *Koinon* whose head-priest is from Kydathenaion, but the members of this association may not have been Athenians; see *I.G.*, II², 2343; W. S. Ferguson, *C.P.*, V, 1910, p. 272.

Lines 30-33: A priest of Asklepios, Olympichos Kydathenaieus, from the end of the fourth century may have belonged to the same family as the men in these lines; see *I.G.*, II², 4410; W. B. Dinsmoor, *The Archons of Athens in the Hellenistic Age*, Cambridge, Mass., 1931, p. 165.

Line 47: Either $\text{Κολ}[\lambda\upsilon\tau\epsilon\acute{\iota}]\mid\varsigma$ or $\text{Κολ}[\omega\nu\epsilon\acute{\iota}]\mid\varsigma$; on the latter see D. M. Lewis, *B.S.A.*, L, 1955, pp. 12-17; W. E. Thompson, *Hesperia*, XXXIX, 1970, pp. 64-65.

Since the name Theozotides is exceedingly rare at Athens, the author of the present decree may safely be identified not only with the target of Lysias' fragmentary speech *Against Theozotides*⁴² but also with the proposer of a rider to an honorary decree of ca. 400.⁴³ Nor is political activity at the end of the fifth century ruled out

⁴² Pollux, VIII, 46; Lysias, fr. 6, ed. Gernet and Bizos, II, pp. 234-236, 257-259.

⁴³ *I.G.*, II², 5, as correctly interpreted by D. M. Lewis, *B.S.A.*, XLIX, 1954, pp. 34-35. In

for the only other Athenian Theozotides attested in this period. He had been attacked by Kratinos sometime before 423⁴⁴ and was the father of two young followers of Socrates, Nikostratos and Theodotos, who are mentioned in Plato, *Apology*, 33e. Kirchner⁴⁵ set his birth at *ca.* 451 which makes even more attractive the suggestion that all this evidence refers to one man, Theozotides Kikynneus,⁴⁶ who was the proposer of our decree.

Further evidence about this political figure is provided by Lysias' speech *Against Theozotides* which is preserved on twenty small scraps of papyrus first published by Grenfell and Hunt in 1906.⁴⁷ The speaker attacks Theozotides on two counts: (1) for restricting state support for orphans to *γνήσιοι* and excluding *νόθοι* and *ποιητοί*; (2) for successfully carrying a decree which reduced the pay of the Hippeis from one drachma to four obols per day while raising the stipend of the Hippotoxotai from two to eight obols per day.

Of the three principal fragments of papyrus (a) and (b) contain the first charge and (c) the second and, as Grenfell and Hunt observed, there are no physical grounds on which to base a certain combination. The fragments could come from widely separated parts of the speech. Moreover, it is clear that on the first count the speaker is attacking a proposal which has not yet been carried;⁴⁸ in fact the speech appears to have been made to support an indictment of Theozotides' decree concerning orphans.⁴⁹ On the other hand it is explicitly stated in lines 79-81 that the proposal on

line 10 the *Corpus* reading, *μμένον τὸ ἔτ[ερον]*, is correct as against the misprint *μένον* in *B.S.A.* Cf. *S.E.G.*, XIV, 36.

⁴⁴ Kratinos, fr. 337, Edmonds.

⁴⁵ *P.A.*, no. 6914. For the family tree see no. 11034.

⁴⁶ The demotic comes from Theozotides' great-grandson, Nikostratos, son of Theozotides (II) in *I.G.*, II², 1927, lines 38-39, *ca.* 325. Kirchner's restoration [*Θεοζοτίδην Κι*] *κυννέα* in the Strassburg Papyrus is ingenious but far from certain. See his note in *P.A.*, Addenda, no. 6914. It was on the basis of this restoration that he postulated two men in the fifth century with this name.

Theozotides also appears in Lysias' fragmentary speech *Against Theomnestos*; see B. P. Grenfell, A. S. Hunt, *The Oxyrhynchus Papyri*, Part XIII, London, 1919, p. 56, no. 1606, lines 249, 300; Lysias, fr. 39, ed. Gernet and Bizos. Since the speech is undated, Grenfell and Hunt hesitated to identify him with the target for Lysias' *Against Theozotides*; see p. 71 on line 249. But the name seems rare enough to permit such an identification. Their restoration of *Θεο[ζοτίδης]* in no. 1606, line 785 is unconvincing; see p. 74.

⁴⁷ *The Hibeh Papyri*, I, London, 1906, pp. 49-55, no. 14. For restorations and helpful commentary, K. Fuhr, *Berl. Philol. Woch.*, XXVI, 1906, pp. 1413-1414; A. I. Zakas, *Δυσίον Δόγοι καὶ Ἀποσπάσματα*, II, Athens, 1910, pp. 509-515; K. Jander, *Oratorum et Rhetorum Graecorum Fragmenta Nuper Reperta: Kleine Texte für Vorlesung und Übungen*, no. 118, Bonn, 1913, pp. 7-8, no. III; A. Körte, *Archiv für Papyrusforschung*, VI, 1913, pp. 236-237; A. Wilhelm, *Wien. St.*, LII, 1934, pp. 52-56; A. Messina, *Emerita*, XVIII, 1950, pp. 66-69; Lysias, fr. 6, Gernet and Bizos, II, pp. 234-236, 257-259; U. Albin, *Lisia, I Discorsi*, Florence, 1955, pp. 399-400.

⁴⁸ Cf. the future tense used of Theozotides in lines 29-30.

⁴⁹ It is not clear whether Lysias' client filed a *γραφὴ παρανόμων*, an indictment for proposing a law which was not *ἐπιτῆδειον*, or an action of *προβολή*; see Aristotle, *Ath. Pol.*, 59, 2. Of *προβολή*

military pay had already been successfully carried in the Ekklesia, καὶ τ[αύ]την τήν γνώμην ἐ[ἰσφέρων] βακνυμὲν ἐνίκησε[ν ἐν τῷ δ]ήμῳ.⁵⁰ The diversity of subject-matter also casts doubt on the oft-stated theory⁵¹ that Theozotides' proposal was a *lex satura* which dealt with both orphans and equestrian finances. Finally if, as I shall propose, the newly discovered decree of Theozotides is in fact the one attacked by Lysias' client, it is difficult to imagine how the cavalry business could have been accommodated on the surviving stele.

Theozotides' decree about the cavalry, therefore, should be considered as a separate item, one which preceded in date his proposal about the orphans. Unfortunately the date of the former cannot be fixed with precision. It might have followed the restoration of the democracy in 410 when Athens was in serious financial trouble, although I know of no scholar who has made this suggestion.

It has usually been placed in the period immediately following the fall of the Thirty. Perhaps the motivation for such a decree could help to determine its date. Economy in the face of financial distress has been suggested as Theozotides' prime motive,⁵² but this view is not easy to justify when the pay of the Hippotoxotai was actually increased four-fold and the daily saving would have amounted to a meager 137 drachmai. There must be some other explanation and I find it difficult to suggest one which would be appropriate to the earlier date.

The decree is openly hostile to the Hippeis and is, as Grenfell and Hunt observed, "evidently a democratic measure."⁵³ A punitive measure against the Hippeis which at the same time favored the non-aristocratic Hippotoxotai finds its most appropriate setting in 403 after the fall of the Thirty. The Hippeis had remained in the city with the Thirty and played a leading role in military encounters with the democrats.⁵⁴ They were also instrumental in the mass-arrest and subsequent slaughter of the Eleusinians.⁵⁵ Feeling ran so high against the Hippeis after the restoration of

Pollux, VIII, 46 observes, προβολὴ δὲ ἦν κλήσις εἰς δίκην κατὰ τῶν κακόνως πρὸς τὸν δῆμον διακειμένων. προβολαὶ δ' ἐγίνοντο τοῦ δήμου ψηφισαμένου καὶ τῶν ἐνούστατων τῇ πόλει, ὡς Λυσίας ἐν τῷ κατὰ Θεοδοτίδου περὶ ἀμφοῖν λόγων. On this whole question see now the excellent discussion by H. J. Wolff, "'Normenkontrolle' und Gesetzesbegriff in der attischen Demokratie," *SB Heidelberger Akad. Wissenschaften*, Phil.-hist. Klasse, 1970, no. 2.

⁵⁰ For a criticism of this restoration see A. Wilhelm, *loc. cit.* (*supra*, note 47).

⁵¹ A. I. Zakas, *op. cit.*, p. 510; G. Mathieu, *R.E.G.*, XL, 1927, pp. 104, 112; A. Messina, *op. cit.*, p. 66; Gernet and Bizos, *op. cit.*, pp. 234-235. The fact that [ἐ]ππεὺς and [ὁ]ρφαγ occur in successive lines of the small fragment h may not be significant; Theozotides could be called the enemy of both without implying anything about their legal connection.

⁵² *Ibid.* Cf. also, on the orphans, C. Hignett, *A History of the Athenian Constitution*, Oxford, 1952, p. 296.

⁵³ *Op. cit.*, p. 55; cf. P. Cloché, *La restauration démocratique à Athènes*, Paris, 1915, p. 373. For a different explanation see G. Mathieu, *R.E.G.*, XL, 1927, pp. 111-113.

⁵⁴ At Phyle, Xenophon, *Hell.*, II, 4, 2-7; at Mounychia, *ibid.*, II, 4, 10; with the Ten around Athens, *ibid.*, II, 4, 24-26; with Pausanias and the Spartans near Peiraeus, *ibid.*, II, 4, 31-34.

⁵⁵ *Ibid.*, II, 4, 8-10.

democracy that those who had served under the Thirty were blacklisted and subsequently encountered difficulties in passing their *dokimasiai* before holding magistracies.⁵⁶ Theozotides' decree, which reduced their pay, is probably best placed in this setting soon after the restoration of the democracy.⁵⁷

If acceptable, the date of 403/2 for the cavalry decree would provide a *terminus post quem* for the other measure attacked by Lysias' client, the proposal about the orphans. The text of the papyrus is mutilated but the general picture is clear: fr. a, Theozotides wished to limit public support of the orphans to *γνήσιοι* thus excluding *νόθοι* and *ποιητοί*, who, the speaker claims, were more in need of such aid since the fathers of the *γνήσιοι* had amply provided for them in their wills; in fr. b, Lysias charges,

[ὁ δὲ] πάντων δεινότατον, εἰ [τὸ κάλ]λιστον τῶν ἐν τοῖς [νόμο]ις κήρυγμα Θεοζο-
[τίδ]ης διαβαλεῖ καὶ ψεύδος [κα]ταστήσει· Διονυσίοις γάρ, [ὅτα]ν ὁ κῆρυξ ἀναγορεύῃ
τοὺς [ὄρ]φανοὺς πατρόθεν ὑπειπὼν [ὅτι] τῶνδε τῶν νεανίσκων οἱ πατέρες ἀπέθανον ἐν
τῷ πολέμῳ μαχόμενοι ὑπὲρ τῆς πατρίδος ἄνδρες ὄντες ἀγαθοὶ [καὶ] τούτους ἡ πόλις ἔτρεφε
μέ[χρι] ἡβῆς, ἐνταῦθα πότερα χωρὶς περὶ τῶν ποιητῶν καὶ τῶν νό[θ]ων ἀνερῇ λέγων ὅτι
τούςδε διὰ Θεοζοτίδην οὐκ ἔτρεφεν, ἡ πάντας ἀ[ναγορε]ύων ὁμοίως [τοὺς ὄρφανούς, τῶν]
ποιητῶν καὶ τῶν [νό]θων [καταψεύσε]ται περὶ τῆς τροφῆς ὑποσι[ωπῶν]; ταῦτα οὐχ ὕβρις
καὶ [μ]εγάλη διαβολ[η] ἡ [ἔσται τῆς πόλεως];

Theozotides' discrimination against *νόθοι* and *ποιητοί* is not easy to explain in the period before the citizenship laws of 403/2. Slaves, metics, and foreigners who fought at Arginousai in 407/6 were rewarded with Athenian citizenship.⁵⁸ Samians in large numbers were voted full Athenian rights in 405/4.⁵⁹ Euboians were granted rights of intermarriage with Athenians sometime before 405.⁶⁰ After the Sicilian expedition a decree was passed which permitted citizens to have legitimate children by one Athenian woman while still remaining legally married to another.⁶¹ All available evidence indicates that prior to 403/2 *νόθοι* had full rights of citizenship;⁶² it would be very surprising to find those *νόθοι* whose fathers fell in battle excluded from public support before the end of the war.

⁵⁶ Lysias, XVI, 6; XXVI, 10. For hostility in 399 to the Athenian Hippeis who served under the Thirty, Xenophon, *Hell.*, III, 1, 4.

⁵⁷ At some time before *ca.* 350 the pay of the Hippeis was restored to its previous rate of one drachma per day; Demosthenes, IV, 28.

⁵⁸ Aristophanes, *Frogs*, 190-191, 693-694; Hellanikos Fr. 25 (Jacoby); Diodoros, XIII, 97, 1.

⁵⁹ *I.G.*, II², 1.

⁶⁰ Lysias, XXXIV, 3.

⁶¹ Diogenes Laertios, II, 26; Athenaios, XIII, 2, 556; Aulus Gellius, *N.A.*, XV, 20; on this regulation see H. J. Wolff, *Traditio*, II, 1944, pp. 85-87; A. R. W. Harrison, *op. cit.* (*supra*, note 27), pp. 16-17; W. K. Lacey, *op. cit.* (*supra*, note 18), p. 113.

⁶² H. J. Wolff, *op. cit.*, pp. 75-85; A. R. W. Harrison, *op. cit.*, pp. 24-29, 61-68.

On the laxity of citizenship regulations at Athens prior to the restoration of the democracy in 403/2 see Xenophon, *Hell.*, II, 4, 25; Isokrates, VIII, 88; G. Mathieu, *R.E.G.*, XL, 1927, pp. 65-97.

After the restoration of democracy in 403/2, however, the situation rapidly changed. Thrasyboulos' proposal for massive enfranchisement of the slaves, metics, and foreigners who fought against the Thirty was blocked by Archinos soon after the return to Athens.⁶³ Lysias' bid for Athenian citizenship was unsuccessful despite his considerable efforts in the democratic cause under the Thirty.⁶⁴ Finally, two laws were passed in the archonship of Eukleides which confirmed the Periklean regulations of 451/0 to the effect that only sons of two Athenian parents married by *ἐγγύησις* could qualify for Athenian citizenship; *νόθοι* were excluded.⁶⁵ It is surely in this setting that we should place Theozotides' exclusive proposal about the orphans. It would have followed closely on the decree which reduced the pay of the Hippeis and, when the orphan decree came before the Ekklesia, it was impeached by Lysias' client.

Although the status of *νόθοι* and *ποιητοί* was a burning issue in the months after the restoration of the democracy, the new citizenship regulations were not made retroactive. Timotheos is one of the most conspicuous *νόθοι* born before the dividing line of 403/2 whose status was unaltered by the decrees.⁶⁶ It is unlikely, therefore, that Theozotides proposed to alter in any way the treatment of war-orphans who were already being supported by the state. The latest group to be granted such public support would presumably have consisted of the sons of those who fell in the last year of the Peloponnesian War. No special decree would have been necessary to authorize their dole nor would the *νόθοι* among them have been likely targets for Theozotides' discrimination. It is also unlikely that his exclusive concern in 403/2, at the beginning of a period of peace and political reconstruction, was for the orphans of those who were to fall in future wars.

There was another group of orphans, however, who had not yet been provided for through the existing laws, viz. the sons of those Athenians who had suffered violent death during the oligarchy while coming to the aid of the democracy. Certainly the Thirty did not provide public support for these boys and until the democratic government was restored to working order in 403/2 they may not have received anything more than informal aid from friends and relatives. Their status was unusual in that all their fathers had not strictly died in war with a foreign enemy. On the other hand, their fathers, like the heroes of Phyle, deserved special praise. In return for the *εὐεργεσία καὶ ἀνδραγαθία* of their fathers, it was decided to extend to the sons the privileges enjoyed by the orphans of those who fell in war. This, I suggest, is the proper meeting-ground for the recently discovered decree from the Agora Exca-

⁶³ Aristotle, *Ath. Pol.*, 40, 2; Schol. Aischines, III, 195; [Plutarch], *Lives of the Ten Orators*, 835 F-836 A.

⁶⁴ Schol. Aischines, III, 195; Schol. Hermogenes, *Staseis* = C. Walz, *Rhetores Graeci*, V, Stuttgart, 1803, p. 343, conveniently quoted in Sandys' edition of Aristotle, *Ath. Pol.*, p. 144.

⁶⁵ Athenaios, XIII, 577 B; Schol. Aischines, I, 39; Demosthenes, XLIII, 51; LVII, 30; Isaios, VI, 47; VIII, 19, 43. On these measures see A. R. W. Harrison, *op. cit.*, pp. 25-26.

⁶⁶ Athenaios, XIII, 577.

vations and the decree of Theozotides attacked by the client of Lysias. In the former the exclusiveness is clear in the addition of *Ἀθηναίων* in line 4, the *dokimasia* in line 15, and the careful listing of the sons on the left side with patronymics and demotics. In the speech there is the restriction of public support to *γνήσιοι* and the assimilation of the beneficiaries of Theozotides' decree to the status of war-orphans in the herald's proclamation quoted *supra*, p. 299. In proposing public support for the sons of those who fell in the field under the Thirty, Theozotides brought them into line with the new citizenship regulations. Significantly, it is on this point of discrimination that Lysias' client attacked him, for he could hardly have opposed the measure as a whole. He could refer to Theozotides' decree as a *νόμος* because it called for alterations in the scope and machinery of the old law on war-orphans and he tried to attack it for seeking to make those changes.

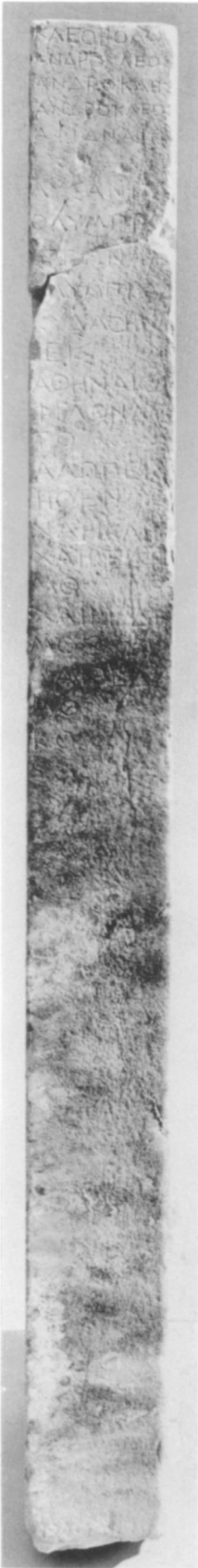
The Agora inscription now shows that Lysias wrote this speech in a losing cause. Theozotides' decree was passed and published on a large marble stele. The boys' names were recorded on it below the decree and the monument, probably surmounted by a sculptured relief, seems to have stood in the Agora as a proud memorial to the defenders of the democracy until, centuries later, it was built into the Great Drain.⁶⁷

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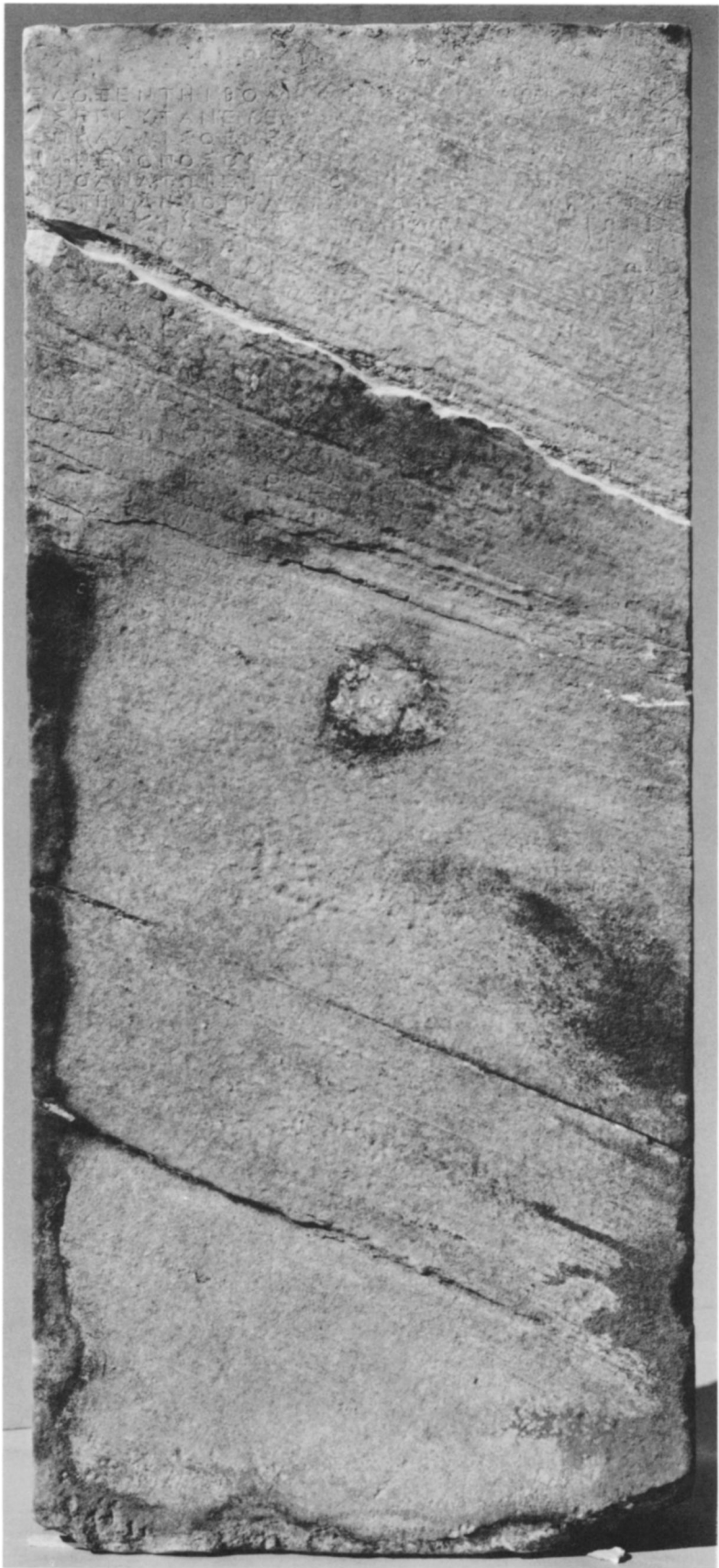
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⁶⁷ There is no clue in the text nor in its place of finding as to where the stele originally stood. The honorary decree for the heroes of Phyle was erected in the Metroon, Aischines, III, 187.

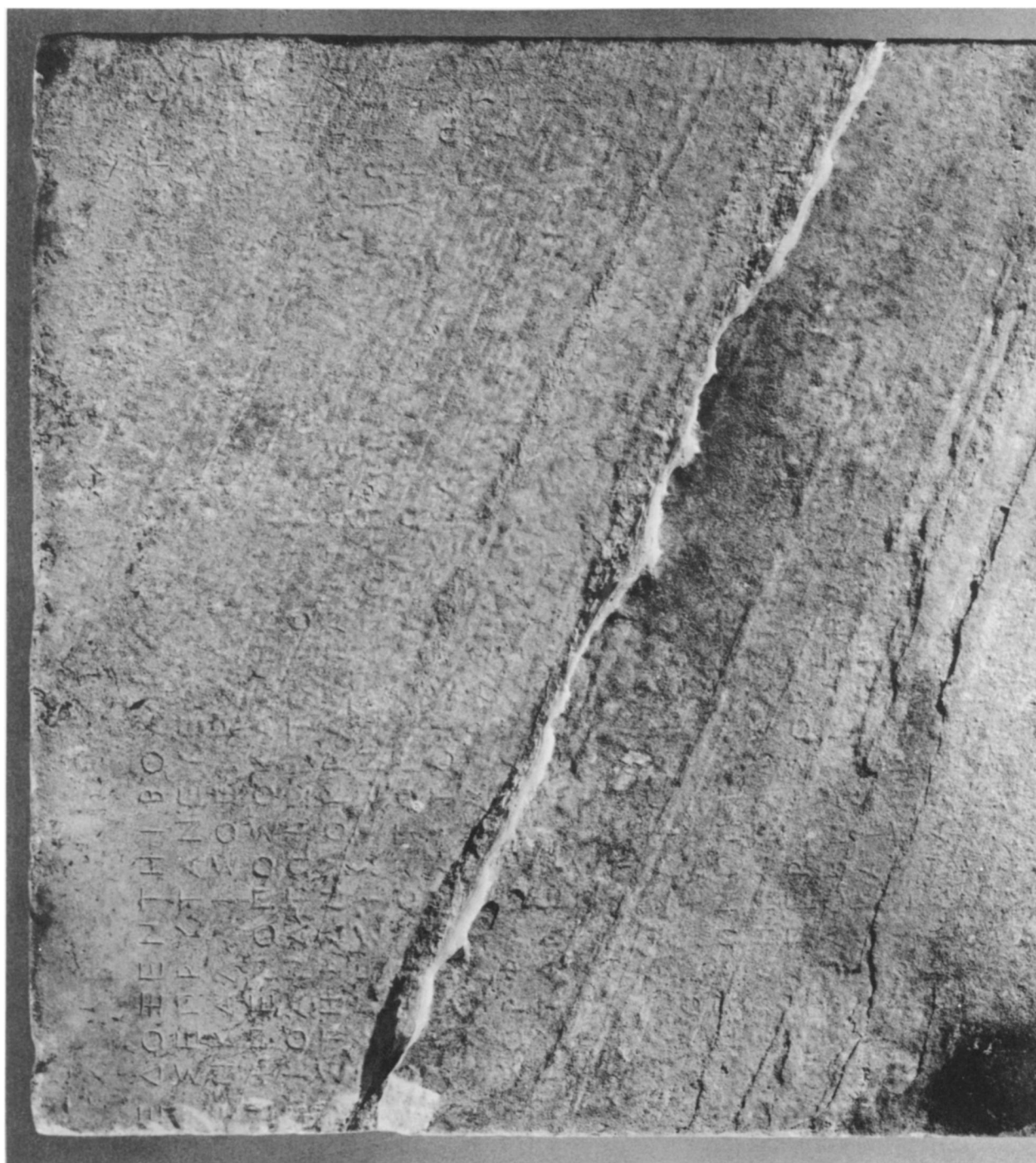
G. Mathieu, *R.E.G.*, XL, 1927, pp. 103-104, and G. Colin, *Xénophon Historien, Annales de l'Est: Mémoires*, II, Paris, 1933, p. 98, argued that Theozotides' law on orphans was either blocked or soon abrogated since we hear nothing about distinctions among war-orphans in the fourth century. This is not a necessary inference since, except for the *Menexenos*, there is no evidence whatsoever for support of war-orphans in the fourth century. The termination of public support need not be connected with the alleged revoking of Theozotides' decree.



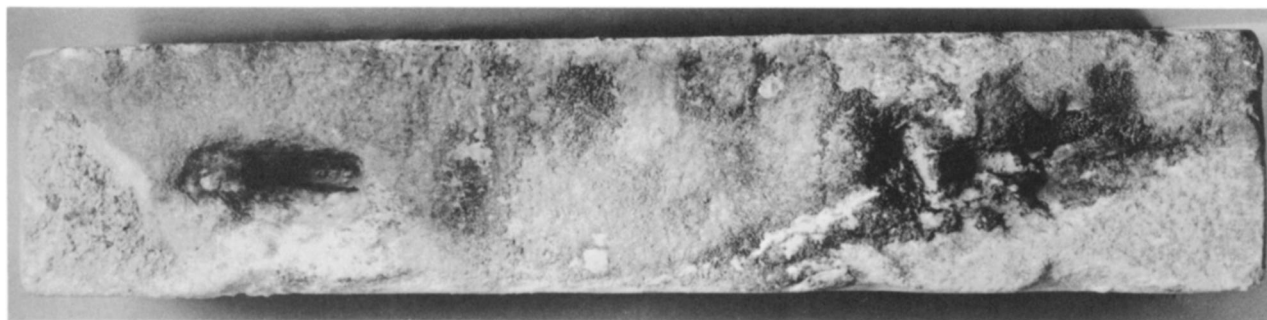
No. 7. Left Side



No. 7. Front



No. 7. Upper Part



No. 7. Top

RONALD S. STROUD: GREEK INSCRIPTIONS: THEOZOTIDES AND THE ATHENIAN ORPHANS