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P. BEROL. INV. 5008, DIDYMUS, AND HARPOCRATION RECONSIDERED

In 1882 Friedrich Blass published three fragments of a fifth-century papyrus codex (P. Berol. inv. 5008)¹ containing part of an alphabetical lexicon to Dem. 23, Against Aristocrates. Of the five entries preserved—Μιλτοκύθης, μόραν, ὁδός, ὁ κάτωθεν νόμος, and ὅτι Θεμιστοκλῆς ὀστρακίσθη—the second, third, and fourth bear close resemblance to entries in Harpocration's second-century A.D. lexicon to the Attic orators.² After comparing each of the three pairs of entries, Blass argued that Harpocration had derived his discussions of μόραν, ὁδός, and ὁ κάτωθεν νόμος from the anonymous lexicon partially preserved by the papyrus.³ When we examine the discussions of μόραν and ὁδός, Blass' hypothesis seems plausible: Harpocration's discussion of μόραν could easily have been cut directly from the anonymous lexicon, and the two discussions of ὁδός are nearly identical.⁴ But this hypothesis, in my view, does not adequately account for the differences between the two versions of the comment on ὁ κάτωθεν νόμος. In what follows, I argue that Harpocration and the author of the anonymous lexicon in P. Berol. inv. 5008 are dependent on a common source, which in turn is dependent on Didymus and perhaps one other commentator.5

4. For a side-by-side comparison of the two texts, see Blass, "Lexicon," 157-58.

^{1. (=} Pack² 317) Edited with commentary in "Lexicon zu Demosthenes' Aristokratea," Hermes 17 (1882): 148-63; text reprinted in H. Diels and W. Schubart, Didymos Kommentar zu Demosthenes, Berliner Klassikertexte, I (Berlin, 1904), 78-82.

^{2.} Edited by John J. Keaney, Harpocration: Lexeis of the Ten Orators (Amsterdam, 1991).

^{3.} Cf. Blass, "Lexicon," 160.

^{5.} I draw a distinction between the "anonymous text in P. Berol. inv. 5008," whose composition, as I will argue, dates from between the first century B.C. and the fifth century A.D., and the particular fifth-century copy preserved in P. Berol. inv. 5008.

This investigation provides a rare glimpse into the interrelationships among ancient commentaries and lexica and shows concretely how ancient scholars borrowed from and adapted each other's works for their own varied purposes.

The two entries on ὁ κάτωθεν νόμος are intended to explain the meaning of that phrase in Dem. 23.28: καὶ λαβοῦσιν ἐκείνοις ἐξέσται στρεβλοῦν, αἰκίσασθαι, χρήματα πράξασθαι, καίτοι πάντα ταῦτ' ἀπείρηκεν ἄντικρυς καὶ σαφῶς ὁ κάτωθεν νόμος μηδὲ τοὺς ἑαλωκότας καὶ δεδογμένους ἀνδροφόνους ἐξεῖναι ποιεῖν. λέγε δ' αὐτοῖς αὐτὸν τὸν νόμον τὸν μετὰ ταῦτα.6 The relevant law is then given: τοὺς δ' ἀνδροφόνους ἐξεῖναι ἀποκτείνειν ἐν τῆ ἡμεδαπῆ καὶ ἀπάγειν, ὡς ἐν τῷ ⟨ā⟩ ἄξονι ἀγορεύει, λυμαίνεσθαι δὲ μή, μηδὲ ἀποινᾶν, ἢ διπλοῦν ὀφείλειν ὅσον ἂν καταβλάψη, εἰσφέρειν δὲ τοὺς ἄρχοντας, ὧν ἕκαστοι δικασταί εἰσι, τῷ βουλομένω, τὴν δ' ἡλιαίαν διαγιγνώσκειν. 7 Not surprisingly, the quoted law corresponds exactly to Demosthenes' call to read a law governing the treatment of murderers. But ancient scholars in this instance mistakenly believed that the readily apparent explanation was not the correct one. Two factors probably contributed to their misunderstanding. First, ὁ κάτωθεν νόμος is not one of Demosthenes' usual expressions for a law that is about to be read aloud or appears below in the text. In fact, it is never used elsewhere in Demosthenes with reference to a law, and there is not a single instance of the word κάτωθεν in the other Attic orators, Elsewhere in Dem. 23, for instance, Demosthenes asks the clerk to read τὸν μετὰ ταῦτα νόμον (23.44, 51, 60, 62, and 87), the similar αὐτὸν τὸν νόμον τὸν μετὰ ταῦτα (28), τοὺς νόμους αὐτοῦς (22), τὸν ἐφεξῆς (86) and the plural τοὺς ἐφεξῆς νόμους (37), and ἄλλον νόμον (53). Perhaps the occurrence of the expression αὐτὸν τὸν νόμον τὸν μετὰ ταῦτα in close proximity to ὁ κάτωθεν νόμος in Dem. 23.28 led ancient commentators to believe that the two expressions must refer to different things. The second contributing factor is that the -θεν suffix on κάτωθεν could be taken literally as indicating the source "from which"; in this view, ὁ κάτωθεν νόμος would actually mean "the law from below."

These two observations led ancient commentators to look for interpretations to account for the unusual phrase δ κάτωθεν νόμος; we turn now to consider the interesting results of their research. By comparing the two versions of the comment on δ κάτωθεν νόμος I hope to show that neither can be derived from the other, but that both must derive from a common source.

L. P. Berol., Inv. 5008: Ο ΚΑΤΩΘΕΝ ΝΟΜΟΣ:

Δ[ίδ]υμος ὁ γραμματικὸς διχῷς | ἐξη[γ]εῖται τὸ ε[ἰρημ]ένον· ἢ γὰρ διὰ τὸ τὴν ἡλιαίαν | δ[ι]αγιγνώσκειν [περὶ] τῶν λυμαινομένων καὶ |ἄπο[ι]να δεχομένων οὕτως φησὶν εἰρηκέναι τὸν | ῥήτορα· τῶν γὰρ [δικασ]τηρίων ἔλεγον τὰ μὲν ἄ|νωι εἶναι τὰ δὲ κ[άτωι]· ἢ διὰ τὸ σχῆμα τῆς ἐν τοῖς | ἄξοσι γραφῆς βου[στροφ]ηδὸν γεγραμμένης ἐκ | μεταφορᾶς τῆς ἀ[πὸ τῷ ἀ]ρού[ντ]ων· [ἐκ τῶν κ]άτ[ωι] | γὰρ ἀπὸ τῶν ἀρισ[τερῶν ἤρχοντο, ὥσ]τε τὸ[ν] ἑ[ξῆς ἄνω]|[θ]εν ἀ[ν]αστρέφ[εσθ]α[ι ἀπὸ τῶν δ]εξιῶν εἰς τὰ ἀ[ρ[ιστ]ερ[ά]αυ.....ουδε τὸν γό[μο]γ | [τὸν] [ἀπὸ τῶν εὐωνύμω]ν ἀρχό[με]νον | κά[τωθεν - - - εἶναι. δύναται] | δὲ

^{6. &}quot;When they have got (the culprit), it is lawful to torture him, make him suffer, and take his money. Yet the law below (ὁ κάτωθεν νόμος) directly and clearly forbids us to carry out all these punishments even against men caught and proven to be murderers. Read to them the law that follows (αὐτὸν τὸν νόμον τὸν μετὰ ταῦτα)."

^{7. &}quot;It is lawful to kill murderers in our own land and to arrest them, as it says on the first $\alpha \xi_{\omega}$, but not to inflict personal injury or exact recompense, else it is lawful to fine that person for twice the damage done. It is lawful that the archors, in the areas where each of them are dicasts, introduce cases for whoever wants them, and that the Heliaia give judgment."

[καὶ διὰ τοῦτο κάτωθεν λέγ]εσθαι, ὅτι τοὺς ἄ|ξ[ονας καὶ τοὺς κύρβεις ἄνωθε]ν ἐκ τῆς ἀκρο|πόλ[εως εἰς τὸ βουλευτήριον καὶ τ]ὴν ἀγορὰν με|τέ[στησεν Ἐφιάλτες, ώς φησιν Ανα|ξιμένης ἐγ | τῆ(ι) $\bar{}$ [τῶν Φιλιππικῶν].

THE LAW (FROM) BELOW:

Didymus the scholar explains this phrase in two ways. For he says that the orator says this either because it is the Heliaia that gives judgment concerning those who inflict personal injury and those who receive recompense—for they used to speak of upper and lower courts; or because the layout of the writing on the $\Tilde{\alpha}\xi$ ove $\Tilde{\zeta}$ was boustrophedon, a metaphor from plowing, for they normally started from the lower left, so that (a law) would turn back from the top from right to left . . . But it is also possible that "from below" is said because Ephialtes moved the $\Tilde{\alpha}\xi$ ove $\Tilde{\zeta}$ and the $\Tilde{\kappa}$ from the Acropolis down to the Bouleuterion and the Agora, as Anaximenes says in the (n)th book of the *Philippics*.8

ΙΙ. ΗΑΡΟCRATION, S.V. ὁ κάτωθεν νόμος (ΚΕΑΝΕΥ, Ο 14):

Δημοσθένης ἐν τῷ Κατ' Ἀριστοκράτους. Δίδυμος: "ήτοι," φησί, "τὴν ἡλιαίαν λέγει ὁ ῥήτωρ διὰ τὸ τῶν δικαστηρίων τὰ μὲν ἄνω τὰ δὲ κάτω ὀνομάζεσθαι, ἢ διὰ τὸ σχῆμα τῆς ἐν τοῖς ἄξοσι γραφῆς βουστροφηδὸν γεγραμμένης ἦι τὸν ἀπὸ τῶν εὐωνύμων ἀρχόμενον νόμον κάτωθεν ὀνομάζει ὁ Δημοσθένης: ὅτι γάρ," φησί, "βουστροφηδὸν ἦσαν οἱ ἄξονες καὶ οἱ κύρβεις γεγραμμένοι δεδήλωκεν Εὐφορίων ἐν τῷ Ἀπολλοδώρω, ἢ ἐπεί," φησί, "τοὺς ἄξονας καὶ τοὺς κύρβεις ἄνωθεν ἐκ τῆς ἀκροπόλεως εἰς τὸ βουλευτήριον καὶ τὴν ἀγορὰν μετέστησεν Ἐφιάλτες, ὥς φησιν Ἀναξιμένης ἐν Φιλιππικοῖς."

THE LAW (FROM) BELOW:

Demosthenes in *Against Aristocrates*. Didymus says, "Either the orator means the Heliaia because the courts were called upper and lower, or because the layout of the writing on the ἄξονες was boustrophedon, in which a law that begins from the left Demosthenes calls 'from below.' For," he says, "Euphorion in *Apollodorus* made it clear that the ἄξονες and the κύρβεις were written boustrophedon. Or," he says, "because Ephialtes moved the ἄξονες and the κύρβεις from the Acropolis down to the Bouleuterion and the Agora, as Anaximenes says in the *Philippics*."

For the moment let us focus on the similarities between the two texts. Both give three interpretations of the phrase "the law (from) below." All three are ultimately grounded in the supposed meaning of $\kappa\acute{\alpha}\tau\omega\theta\epsilon\nu$, and some contextual support for them is found in the law quoted in Dem. 23.28:

- One view is that "the law from below" means a law from the lower courts, that is, the Heliaia (as distinct from the Areopagus and the other homicide courts?). According to Demosthenes, the Heliaia hears cases where murderers have been unlawfully abused (τὴν δ' ἡλιαίαν διαγιγνώσκειν), but nothing in Demosthenes supports the claim about upper and lower courts.¹⁰
- 2. A second view is that "the law from below" refers to a law from the άξονες, written boustrophedon. "From below" is taken to mean "from the lower left of the stone." According to Demosthenes, a law providing for the arrest of murderers appeared on

^{8.} FGrH 72 F13.

^{9.} Frag. 6 in J. U. Powell, Collectanea Alexandrina (Oxford, 1925).

^{10.} On the Heliaia, see Douglas M. MacDowell, *The Law in Classical Athens* (Ithaca, 1978), 29–33. The only parallels for upper and lower courts, unrelated to the Heliaia, are found in Christian authors (John Chrysostom and Synesius), where the context is very different.

- the ἄξονες (ὡς ἐν τῷ (ᾳ) ἄζονι ἀγορεύει), but Demosthenes does not directly support the claim that this law was written boustrophedon.
- 3. A third view interprets "the law from below" as a law from the Agora. "From below" is taken to mean "from below in the Agora," that is, with respect to the Acropolis. There is no direct support for this claim in Demosthenes.¹¹

To test Blass' hypothesis that Harpocration's treatment of ὁ κάτωθεν νόμος is derived from the anonymous lexicon in P. Berol. inv. 5008, let us now contrast the two versions, treating the fuller P. Berol. inv. 5008 as the base text. First, we can easily dismiss the converse possibility that the anonymous lexicographer drew on (and supplemented) Harpocration. 12 The anonymous lexicon opens with the statement, "Didymus the scholar explains this phrase in two ways (διχῶς)." The reading διχῶς is corroborated by the way in which the three subsequent interpretations are organized and presented. The first two are joined as alternatives by the words "either because . . . or because" ($\mathring{\eta} \gamma \mathring{\alpha} \rho \delta i \mathring{\alpha} . . . \mathring{\eta} \delta i \mathring{\alpha} \tau \mathring{\delta}$), while the third interpretation is introduced by the adversative phrase "but it is also possible that . . ." ([δύναται] | δὲ $[\kappa\alpha i]$). In other words, if we accept Blass' restorations, the commentary gives the reader three choices: either A or B, but also possibly C. Harpocration, on the other hand, not only omits the qualifier "in two ways" but inserts the verb onoi to concatenate the three interpretations; there can be no doubt that Harpocration intended to attribute all three to Didymus. But if Blass' readings are correct, and if I am correct to posit a distinction between Didymus' two interpretations and the third anonymous one, then Harpocration has incorrectly attributed all three interpretations to Didymus. If the anonymous lexicographer had drawn on Harpocration, he would not have known that Didymus was responsible only for the first two interpretations, unless he had read Didymus himself. But if he had read Didymus himself, then he and Harpocration would independently have had to find and use the third, non-Didymean interpretation—an unlikely proposition at best. Comparison of the two introductions to the discussion of ὁ κάτωθεν νόμος suggests very strongly that the anonymous lexicon is not derived from Harpocration.

After the introduction, each version of the discussion of ὁ κάτωθεν νόμος gives three interpretations. Comparison of the first and third of these unfortunately proves inconclusive for our purposes. In the first interpretation, the author of the anonymous lexicon constructs a definition of the Heliaia's function using the law quoted in Dem. 23.28: ". . . the Heliaia gives judgment (τὴν ἡλιαίαν $|\delta[\iota]$ αγιγνώσκειν; cf. Dem. τὴν δ' ἡλιαίαν διαγιγνώσκειν) concerning those who inflict personal injury (τῶν λυμαινομένων; cf. Dem. λυμαίνεσθαι) and those who receive recompense (ἄπο $[\iota]$ να δεχομένων; cf. Dem. ἀποινᾶν)." This definition does not appear in Harpocration. Both authors then remark that Athenian δικαστήρια were divided into upper

^{11.} On the location of laws in Athens, see MacDowell, Law, 45–48. This interpretation is an interesting misreading of Anaximenes, according to Jacoby ad FGrH 72 F13: Ephialtes' removal of the laws from the Acropolis to the Agora is a figurative way of saying that he made the Boule and the ἐκκλησία a more important part of Athenian politics. But Ronald S. Stroud, The axones and kyrbeis of Drakon and Solon (Berkeley, 1979), 12–13 and 42, disagrees, saying that this statement must be taken literally: the ἄξονες and κύρβεις were located on the Acropolis until Ephialtes, in 461 B.C., removed the ἄξονες to the Prytanium and the κύρβεις to the Agora.

^{12.} It is conceivable that Harpocration derived most of his discussion from the anonymous lexicon but added material of his own, such as glosses or additional citations. We must therefore test this possibility, because, given a long comment and a very similar short comment, we cannot conclude that the shorter is necessarily derived from the longer.

and lower. Their statements are very similar; each begins with the partitive genitive δικαστηρίων and divides the courts into τὰ μὲν ἄνω and τὰ δὲ κάτω. However, the anonymous lexicon uses an indirect statement construction (ἕλεγον . . . εἶναι), while Harpocration uses an articular infinitive and a different verb (διὰ τὸ . . . ὁνομάζεσθαι). The third interpretation is also heavily restored in P. Berol. inv. 5008. Nevertheless, the restorations seem justified inasmuch as the preserved text corresponds almost exactly to Harpocration, with one minor difference: the anonymous lexicon appears to have given a precise reference to a book of Anaximenes' *Philippics*, while Harpocration is content to cite the *Philippics* in general.

The second of the three interpretations proves more useful for the present argument. We have already eliminated the possibility that the anonymous lexicon is derived from Harpocration. By comparing the two versions of the second interpretation, we can now eliminate Blass' hypothesis that Harpocration's entry for ὁ κάτωθεν νόμος is derived from the anonymous lexicon. Both versions of the second interpretation begin identically: διὰ τὸ σχημα τῆς ἐν τοῖς ἄξοσι γραφῆς βουστροφηδὸν γεγραμμένης. The anonymous lexicon goes on to explain that boustrophedon is "a metaphor from plowing" (ἐκ | μεταφορᾶς τῆς ἀ[πὸ τῶν ἀ]ρού[ντ]ων); the appearance of boustrophedon writing is then described in detail. Harpocration omits the gloss "a metaphor from plowing" and drastically compresses the description of boustrophedon writing. He then adds a crucial detail not found in P. Berol. inv. 5008: ότι . . . βουστροφηδὸν ἦσαν οἱ ἄξονες καὶ οἱ κύρβεις γεγραμμένοι δεδήλωκεν Εὐφορίων ἐν τῷ Ἀπολλοδώρω. Harpocration directly attributes this citation of Euphorion along with its surrounding context to Didymus ("ὅτι γάρ," φησί [sc. Didymus], "βουστροφηδον ἦσαν οἱ ἄξονες καὶ οἱ κύρβεις γεγραμμένοι δεδήλωκεν Εὐφορίων ἐν τῷ ἀπολλοδώρω"), so we know that in this instance Harpocration did not contribute the citation of Euphorion himself. 13 Furthermore, the citation of Euphorion does not appear in the anonymous lexicon, 14 so Harpocration cannot have copied it from there. We can therefore dismiss Blass' hypothesis that Harpocration derived his version of the comment on ὁ κάτωθεν νόμος from the anonymous lexicon in P. Berol. inv. 5008.

To sum up so far, I have argued that the differences between the two versions of the introduction to the discussion of \dot{o} $\kappa \dot{\alpha} \tau \omega \theta \epsilon \nu$ vóμoς prove that the anonymous lexicon is not derived from Harpocration, while the differences between the two versions of the second interpretation prove that Harpocration's lexicon is not derived from the anonymous lexicon. Given the undeniable similarities between the two treatments of \dot{o} $\kappa \dot{\alpha} \tau \omega \theta \epsilon \nu$ vóμoς and the improbability that Harpocration and the anonymous lexicographer could independently have concatenated these three particular explanations, we are left with the conclusion that P. Berol. inv. 5008 and Harpocration were independently drawing on a lost intermediary source. I would propose a hypothesis to explain the transmission of the comments on \dot{o} $\kappa \dot{\alpha} \tau \omega \theta \epsilon \nu$ vóμoς, as summarized in the following five steps:

 Didymus in the first century B.C. wrote a commentary to Dem. 23, in which he gave two interpretations of ὁ κάτωθεν νόμος. This commentary is not extant, but it must

^{13.} Harpocration appears to cite Euphorion directly in his entries on ὑποκυδεῖς (Y 9) and πεφοριῶσθαι (Π 65).

^{14.} As previously noted by Blass, "Lexicon," 159.

have contained at least the sum of the information that is given in the first and second interpretations in Harpocration and P. Berol inv. 5008. This would include a definition of the Heliaia's jurisdiction (constructed from Dem. 23.28), the division of courts into upper and lower, and the boustrophedon writing on the ἄξονες, including a gloss on the word boustrophedon ("a metaphor from plowing"), a detailed description of the appearance of such texts, and a citation of Euphorion's *Apollodorus*. ¹⁵

- 2. Another commentator or lexicographer (before the second century A.D., the date of Harpocration's lexicon) provided a different interpretation: "because Ephialtes moved the ἄξονες and the κύρβεις from the Acropolis down to the Bouleuterion and the Agora." This interpretation now appears as the third interpretation in Harpocration and the anonymous lexicon, and the anonymous lexicon implies that Didymus is not responsible for it.
- 3. In a lost lexicon or commentary (dating from between the first century B.C., the date of Didymus' commentary, and the second century A.D., the date of Harpocration's lexicon), an unknown scholar combined Didymus' two interpretations (Step 1) with the third anonymous interpretation (Step 2) into a single treatment of ὁ κάτωθεν νόμος. The compiler made some sort of distinction between the two authors. Note: it is also possible that this scholar read Didymus' commentary and then added the third interpretation himself, which would eliminate Step 2 as it stands above.
- 4. The author of the anonymous lexicon in P. Berol. inv. 5008 (dating from between the first century B.C., the date of Didymus' commentary, and the fifth century A.D., the palaeographical date of P. Berol. inv. 5008)¹⁶ abbreviated the lost work of Step 3, retaining its distinction between Didymus' two interpretations and the third anonymous one
- 5. Harpocration (second century A.D.) independently and more drastically abbreviated the lost work of Step 3, mistakenly attributing all three interpretations to Didymus.

Ancient commentaries typically followed the order in which the items to be discussed appeared in the target text, and they were keyed to the text by editorial symbols or by the inclusion of brief lemmata. Ancient lexica typically differed in organization from commentaries, in that the discussions of individual words and phrases were usually shorter, and their contents were often arranged alphabetically, as seen in P. Berol. inv. 5008. The comparison of the two versions of the comment on δ $\kappa\acute{\alpha}\tau\omega\theta\epsilon\nu$ vóμος in Harpocration and P. Berol. inv. 5008, we can make some useful observations. We have seen that Didymus' comments on δ $\kappa\acute{\alpha}\tau\omega\theta\epsilon\nu$ vóμος, which originally appeared in his commentary on Dem. 23, were combined with another scholar's comments to produce a new work, which in turn was mined to produce entries in a special lexicon for Dem. 23 (P. Berol. inv. 5008) and in a general

^{15.} The inspiration for Didymus' second interpretation may have come from his Περὶ τῶν ἀξόνων τῶν Σόλωνος ἀντιγραφὴ πρὸς Ἀσκληπιάδην, which is known only from one uninformative fragment; see M. Schmidt, ed., Didymi Chalcenteri Grammatici Alexandrini Fragmenta (Leipzig, 1854), 399.

^{16.} Although he does not explicitly say so, the natural extension of Blass' argument would be that P. Berol. inv. 5008 contains a fifth-century copy of a lexicon written between the first century B.C. (the date of Didymus) and the second century A.D. (the date of Harpocration). But if, as I have argued here, Harpocration and the author of the anonymous lexicon were both working independently from a lost source (my Step 3, above), we cannot necessarily date the composition of the anonymous lexicon before the fifth century, the palaeographical date of P. Berol. inv. 5008.

^{17.} The statement of Lloyd W. Daly, in Contributions to a History of Alphabetization in Antiquity and the Middle Ages (Brussels, 1967), p. 31, n. 2 is misleading, in that P. Berol. inv. 5008 is more properly understood as a lexicon than as a commentary with alphabetized lemmata: "By the fourth century, at least parts of [Didymus'] commentary on Demosthenes had been reduced to a form in which the comments were arranged according to the alphabetic sequence of their lemmata."

lexicon to the Attic orators (Harpocration). Harpocration and the anonymous lexicographer differed in their ability to cite sources accurately, digest their source material, and use their findings to illuminate the meaning of $\delta \kappa \acute{\alpha}\tau \omega \theta \epsilon \nu \nu \acute{\omega}\mu o \varsigma$ in its Demosthenic context. More generally, we have seen here that ancient lexicographers were continually and creatively reworking the received tradition of scholarship, producing new reference works by excerpting, abbreviating, and redeploying isolated sections from earlier lexica and commentaries. ¹⁸

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