

NEW FRAGMENTS OF HYPERIDES FROM THE ARCHIMEDES PALIMPSEST

The Archimedes palimpsest, sold in 1998 at Christie's and now on deposit in the Walters Arts Museum in Baltimore, has been the object of numerous recent publications.¹ Its lower script contains works by Archimedes, including several treatises not attested elsewhere. It is less well known that the palimpsest consists of several parts and that, in addition to the 10th century Archimedes codex, folios from other manuscripts were recycled in the 12th–13th century to make a Euchologion. J. Heiberg, the first editor of the Archimedes texts from the palimpsest, noticed some of these other folios.² Preliminary examination of the material which has been digitally enhanced so far³ has shown that, although it is still too early to make a comprehensive list of all the non-Archimedes items, more than forty folios can be added to Heiberg's record. So far, only a few words have been deciphered on some of them, mostly pointing to Christian contents.⁴

The only exception is formed by a group of five bifolia: ff. 135+138, 136+137, 144+145, 173+176, and 174+175. In 1907, Heiberg managed to read a phrase . . . γνώρισταί τὴν ἑαυτοῦ ἀδελφὴν on f. 138v.⁵ In 1999, Nigel Wilson reported that the phrase 'surprisingly has so far foiled all attempts at identification'.⁶

In 2002, when the manager of the project, Will Noel, entrusted these folios to me, I saw that they contained a piece of Attic oratorical prose and I found that the key to their identification lay in ll. 20–23 of ff. 135v–138r. These lines corresponded closely to a quotation from a lost speech by Hyperides,⁷ transmitted in the Suda:

Sud. π 847 παιδάριον· οὐ μόνον ἐπὶ τῶν ἀρρένων κέχρηται τῷ ὀνόματι οἱ ῥήτορες, ἀλλὰ καὶ ἐπὶ παρθένων (cf. Phot. p. 368,23 Porson παιδάριον· οὐ μόνον τὸ ἄρρεν, ἀλλὰ καὶ τὸ θῆλυ λέγουσι, Lex. Bekk.^v p. 298,10 παιδάριον· καὶ ἐπὶ ἀρρένων καὶ ἐπὶ θηλειῶν). Ὑπερίδης ἐν τῷ πρὸς Τίμανδρον· καταλλαχθέντων γὰρ τούτων δυοῖν ἀδελφοῖν καὶ δυαῖν ἀδελφαῖν ὄρφαναῖν καὶ πρὸς πατρὸς καὶ μητρὸς καὶ παιδαρίων παίδων.

I express here my deep gratitude to the new owner of the palimpsest for granting me access to the original. I thank D. Arnesano, P. E. Easterling, L. Horváth, J. J. Leifer, A. Quandt, N. G. Wilson for their comments; and W. Christens-Barry, R. Easton, K. Knox, and W. Noel for their efforts at enhancing the legibility of the lower text. Particular thanks go to Colin Austin for his encouragement and conjectures, and to Eric Handley for his support and inspirational 'stochastic' restorations: without their help and advice this paper would never have been written. The final version has benefited from R. Kassel's expert scrutiny. Funding to carry out research on Hyperides was generously provided by Trinity College, Cambridge. In July 2005 a small exhibition was held in the Wren Library on the theme 'Eureka? The conservation, imaging and study of the Archimedes palimpsest'. To mark the occasion, W. Noel and I gave an illustrated talk in the Winstanley Lecture Theatre (21/7/05).

¹ N. G. Wilson, Archimedes: the palimpsest and the tradition, *BZ* 92/1 (1999), pp. 89–101; R. Netz – K. Saito – N. Tchernetska, A new reading of Method Proposition 14: preliminary evidence from the Archimedes palimpsest, (Part 1) *Sciamus* 2 (2001), pp. 9–29, (Part 2) *Sciamus* 3 (2002), pp. 109–125; J. Lowden, Archimedes into icon, in A. Eastmond – L. James (eds.), *Icon and Word: The Power of Images in Byzantium*, Aldershot 2003, pp. 239–67.

² J. L. Heiberg, Eine neue Archimedeshandschrift, *Hermes* 42 (1907), pp. 235–303, esp. p. 236.

³ Multispectral imaging of the palimpsest has been conducted by W. Christens-Barry, R. Easton, and K. Knox.

⁴ An overview is given in N. G. Wilson, The Archimedes palimpsest: a progress report, *Journal of the Walters Art Museum* 62 (2004). Further folios, namely ff. 51–54, 52–53, 73–80, 74–79, 75–78, 76–77, and ff. 83–86, 84–85 can be added to his list. They have yet to be deciphered.

⁵ Heiberg, Eine neue Archimedeshandschrift, p. 236.

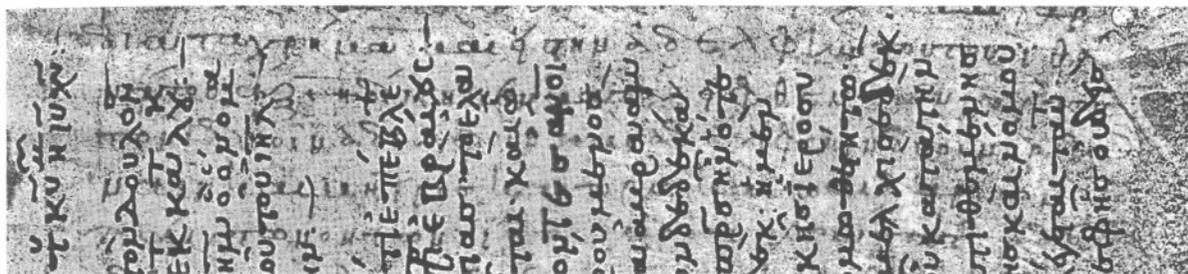
⁶ Wilson, Archimedes, p. 90.

⁷ *Hyperidis orationes sex cum ceterarum fragmentis post Fridericum Blass papyris denuo collatis* ed. Chr. Jensen, Lipsiae 1917, p. 142 (fr. 164).

The physical condition, mould damage, and hence legibility differ greatly in these folios. In the majority, only scattered words are legible to the naked eye. Multispectral image enhancement has been of considerable help, although to a lesser extent than in deciphering the Archimedes text, for which this technique had been especially designed. Still, after strenuous and repeated efforts, I have managed to decipher substantial portions of the text on ff. 135v–138r. I offer here a provisional reconstructed text (with textual and palaeographical notes), followed by an English translation and some exegetical comments: at this stage, given the importance of the discovery and the difficulty of the task, it is probably fair to say ἀρχὴ δέ τοι ἤμισυ παντός.

Reconstructed text

1 τοῦ μὲν εὐρίσκοντος ἐν τῷ δικαστηρίῳ . . . ἀγαγοντες
 2 τοῖς παισίν· ἐὰν δὲ πλείω περιποιήσῃσιν τοῖς παι-
 3 σίν, τούτων εἴη φιλοτιμί(α). αὐτοῖς δὲ τοὺς ἐπιτρό-
 4 πους ἀπαγορεύουσιν οἱ νόμοι μὴ ἐξεῖναι τὸν οἶκον
 5 μισθώσασθαι· ἕξεστι δ' {ε} ἐν τῷ δικαστηρίῳ ἀμφισ-
 6 βητῆσαι μὴ ἄμεινον εἶναι τὸν οἶκον μισθῶσαι τῶ(ν)
 7 παίδων, ὑμῶν δὲ τοὺς λαχόντας δικάζειν ἀκού-
 8 σαντας ψηφίσασθαι ὡ(ς) ἂν δοκῇ βέλτιστα εἶναι τῷ
 9 παιδί. καί μοι λέγε τούτους τοὺς νόμους. = NOMOI =
 10 τούτων τοίνυν οὗτ(ος) οὐδὲν ἐποίησεν οὐδ' ὄλως
 11 ἀπέγραψεν τὸν οἶκον πρὸς τὸν ἄρχον(τα). καί μοι λα-
 12 βὲ τὴν μαρτυρίαν. = MARTYRIA =
 13 ὅτι μὲν τοίνυν οὐ κατὰ τοὺς νόμους τὴν οὐσίαν τὴν
 14 Ἀκαδήμου τουτουὶ διεχείρισε Τίμανδρ(ος) οὕτοσὶ ἀκη-
 15 κόατε τῶν νόμων, καὶ τῶν μαρτύρων ὅτι οὔτε ἐ-
 16 μίσθωσε τὸν οἶκον, ἐτέρου (τε) φήναντ(ος) ἴν(α) μισθω-
 17 θῆ, ἐκώλυσεν· ὅτι δὲ ταῦ(τα) ἵνα διαφορήσῃ τὰ χρή-
 18 μα(τα) οὕτως ἐποίησεν ἤδη ἀτόμως δείξω. καὶ γὰρ
 19 διὰ τὰ χρήμα(τα) καὶ εἰς τὴν ἀδελφὴν τουτουὶ θα-
 20 νάτου ἄξι(α) ἠδίκηκεν· καταλειφθέντων γὰρ του-
 21 τῶν δυοῖν ἀδελφοῖν καὶ ἀδελφαῖν δυοῖν ὀρφα-
 22 ναῖν καὶ μητρὸς καὶ πατρὸς καὶ παιδαρίων
 23 πάντων ὄντων (ἴστε γάρ· ὁ πρεσβύτατ(ος) ἀδελ-
 24 φός Ἀντίφιλος ὁ τελευτήσας ἦν δεκά ἐτῶν)
 25 τὴν νεωτέραν αὐτῶν ἀδελφὴν ἀπόμισθος οὐ-
 26 τοσὶ Τίμανδρος ἔτρεφε παρ' αὐτῷ ἀποκομίσ(ας)
 27 εἰς Λῆμνον ἴσως οὖσαν ἑπτὰ ἐτῶν. καί τοι τοῦ-
 28 το μὴ ὅτι ἐπίτροπ(ος) ἢ εὐνους (ἂν) ἄν(θρωπ)ος ποιήσαι, ἀλ-
 29 λ' οὐδ' οἱ κατὰ πόλεμον ἐγκρατεῖς γιγνόμενοι τ(ῶν)
 30 σωματάων, ἀλλὰ καὶ κατ' οἰκίαν παλοῦσιν ὅτι
 31 μάλιστα. οἱ τοίνυν ἀνδραποδοκάπηλ(οι) καὶ ἔμ-
 32 ποροὶ κέρδους ἕνεκα πᾶν πράττοντες



The Archimedes palimpsest, ff. 135v–138r, pseudocolour image, detail (ll. 19–23)

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Textual and palaeographical notes

1. τοῦ μὲν εὐρίσκοντος: for εὐρίσκω used in this sense ('at the price it fetches') cf. LSJ s.v. V 1, Aeschin. 1,96; C. G. Cobet, *Novae Lectiones* (Lugduni-Batavorum, 1858), p. 648 f.; Dittenberger on SIG 966,37 (Attica, IV B.C.).

1. Before ἀγαγοντες, traces of three or four letters, which are not reconcilable with παρ- or προσ-. Handley suggests εἰς- or ἐπάγοντες, which seems a possibility, but neither τέλος nor τόκον can be read in the gap beforehand.

3. εἴη φιλοτιμί(α): the simple optative is odd. Rather than restore ⟨ἄν⟩ εἴη φιλ. as a potential, Handley suggests Hyperides may have written εἶ(ναί) φιλοτιμί(αν), i.e. the law is being reported. This later got corrupted to εἴη φιλοτιμί(α), when one of the scribes in the chain of copying misread the abbreviated εἶ(ναί) as εἴ(η).

3–9. On renting out an orphan's inheritance (μίσθωσις οἴκου) see A. R. W. Harrison, *The Law of Athens I* (Oxford, 1968), pp. 105–108. R. Kassel notes that this passage seems to settle the disputed point 'whether the law of Athens allowed a guardian to take a lease of his ward's estate' (Wyse on Isaeus 6.36, p. 526 f.): Wyse himself did not think it was lawful, whereas others, including J. H. Lipsius, *Das Attische Recht und Rechtsverfahren* (Leipzig, 1915), p. 348²⁸, and Harrison p. 294, upheld the opposite view that a guardian could bid for and be granted a lease.

14. Ἀκαδήμου: Handley correctly saw – and this is now confirmed by ll. 15–16 on the verso of the bifolium (see below) – that Akademos is the younger brother, 'now heir to the estate after the death of Antiphilos'. Stephen Todd suggests that Ὑπερ Ἀκαδήμου could be an alternative title of the speech (see below on l. 27).

14, 26. Τίμωνδρος is clear and confirms the reading in the Suda. It turns out that Hemsterhuis (*Ar. Plut.*, Harlingae 1744, p. 59) was mistaken in restoring the name of the hetaira Τιμάνδρα, mentioned by Demetr. *Eloc.* 302 (= fr. 165 in Jensen, which should now be deleted).

16. ⟨τε⟩ Handley.

16. φήναντ(ος): for the procedure φάσις ὀρφανικοῦ οἴκου, cf. Harp. φ 7 Keaney; Dem. 38,23; Lipsius, pp. 309–311, 344–349; Harrison, pp. 115–117.

18. There is a hole in the palimpsest after ατ and before ς. Austin suggests ἀτόνως, 'in a relaxed manner, without effort' (cf. Dion. Hal. *Dem.* 20 ἄτονος . . . ἢ λέξις), but Handley is 'not sure one would argue in that way'. A reading ἀπόνως, 'without difficulty' (cf. Hdt. IX 2) is excluded palaeographically, as the second letter is almost certainly τ, and not π. Perhaps ἀτενώς or ἀτενές, 'earnestly', cf. [Epich.] fr. 278,4 K.–A. καταμαθεῖν ἀτενές. Handley's tentative suggestion αὐτὸς (?ἔσται) ὁ δείξω(ν) is hard to reconcile with the traces, as αὐτ is not possible as a reading, and there is no sign of abbreviation after δείξω.

19–20. Cf. Men. *Dysc.* 292 f. πρᾶγμα θανάτων ἄξιον / πολλῶν. The neuter ἄξια is confirmed by the acute on the first α. A feminine ἄξιαν is grammatically possible (see L. Bos, *Ellipses Graecae*, ed.

G. H. Schaefer, Oxford 1813, s.v. δίκη, p. 68 f.; Austin–Olson on Ar. *Thesm.* 382) but was not intended by the copyist.

20. The palimpsest confirms Blass' emendation καταλειφθέντων for καταλλαχθέντων in the Suda.

21. For ἀδελφαῖν δυοῖν the Suda has δυαῖν (sic) ἀδελφαῖν.

22. πρὸς πατρός in the Suda is a clear example of dittography, with πατρός abbreviated to πρὸς (as in the palimpsest). Note again the different word order in the Suda. As Handley remarks, 'all four children, necessarily, are without both father and mother: the point of the feminine dual is, I suppose, that it is harder, and from the orator's point of view, more pathos-making, for young *girls* to be without a mother as well as a father'. For παιδάριον used of a young girl see also Men. fr. 323 K.–A.

27. εἰς Λῆμνον: cf. Harp. η 19 Keaney = Jensen fr. 3 (p. 115) Ἐφαιστία (oppidum Lemni) Ὑπερείδης ἐν τῷ ὑπὲρ Ἀκαδήμου.⁸

28–29. For the idiomatic combination μὴ ὅτι . . . ἄλλ' οὐδ' cf. Lys. 23,12; Is. 10,1; Dem. 33,25; 34,14; 43,9; Aeschin. 3,46 and see Kühner–Gerth II p. 259.

28. ⟨ἄν⟩ Handley.

32. The last six or seven letters are illegible.

English translation

. . . [the guardians] passing it [i.e. the income or interest from the lease] on to the children at the rate achieved in court. But should they produce more for the children, let this be a credit to them. Yet the laws forbid the guardians to lease the property for their own profit. It is possible to argue in court whether it would be advantageous to lease the children's inherited estate, and those of you who are appointed by lot to the court are to hear the case and vote according to the best interests of the individual child. Please read these laws. LAWS. Now the accused did none of these things, nor did he declare the estate to the archon at all. Please take up the testimony. TESTIMONY. Now you have heard from the laws that this man Timandros did not handle Akademos' property in any legal way whatever, and from the witnesses that he did not lease the estate and, when a third party brought a denunciation so that the property would be leased out, he prevented it. But that he did so in order to make away with the money, I will presently demonstrate without effort. Indeed it was in order to get the money that he did the same man's sister a wrong worthy of capital punishment. When there were left these two brothers and two sisters here, the girls being orphans without mother or father, and all of them small children (you should know that the eldest brother Antiphilos, who died, was ten years old), this man Timandros being without any revenue brought up the youngest sister in his own home, taking her to Lemnos when she was perhaps seven. And yet this is something no guardian or any man of goodwill would do, and no more would those who get hold of prisoners in war: what they do is sell them at home for the maximum price. Now those slave-masters and traders who do anything for profit . . .

Comments

The fragment deals with a prosecution against a guardian. According to Attic law, when a man died leaving children who were still minors, a system of guardianship, administered by the archon, was put in place. Guardians, appointed according to the deceased's wish or nominated officially, had duties to provide for their wards, to represent them legally, and to oversee the proper management of their property. To facilitate accounting, it was common to let the property to a tenant, following a special procedure: on the guardian's application to the archon, an auction was held at court where the lease was awarded to the highest bidder. In the case when the guardian did not follow this procedure, anyone

⁸ I thank S. Todd for this reference.

could prosecute him by so-called *phasis*. Another common offence for which a prosecution called *eisangelia* could be brought was maltreatment of the ward by the guardian.⁹

In the fragment, Hyperides appears to prosecute Timandros, who was the guardian of four small children, two boys and two girls. The eldest brother Antiphilos died at the age of 10; the youngest brother Akademos inherited the property and is presumably now the head of the family. Timandros acted illegally in not providing for these children (he neither leased the estate nor made any declaration of it to the archon); moreover, he grossly wronged Akademos' younger sister by removing her to Lemnos in infancy away from her siblings. Thus, Timandros appears to be guilty both in not following the legal procedures and in maltreatment of the orphans.

The same speech continues on the verso of the bifolium (ff. 138v–135r). The best preserved lines are at the gutter; the rest is as yet barely visible.¹⁰ A possible reconstructed text of ll. 12–21 follows; these read like a New Comedy recognition scene:

- 12 ὥστε
 13 μήτε ἐν ὀδῶ μήτε ἐν ἱερῶ ἰδούσας, πλέον.
 14 ἐτῶν ἢ τριῶν καὶ δέκα οὐχ ἑωράκασιν
 15 ἑαυτάς, τὸν δὲ ἀδελφὸν τουτονὶ Ἀκάδημον
 16 ἀναγνωρίσαι τὴν ἑαυτοῦ ἀδελφήν· ἐλθόν(τα)
 17 δὲ εἰς Λῆμνον ἰδόν(τα)· καίτοι ὁ νομο-
 18 θέτης τοὺς παιδάς τοὺς ὀρφανοὺς οὐ χωρὶς ἑ-
 19 καστον τρέφεσθαι ᾤθη(ν) δεῖν, οὐδ' ὅπως ἂν τύ-
 20 χωσιν, ἀλλ' ὅπου ἂν [- - - - - τρ]έφεσθαι·
 21 καί μοι λέγε τὸν νόμον. = ΝΟΜΟΣ =

In 14 the palimpsest has an unaspirated οὐκ for οὐχ. Austin suggests that a possible interpretation appears if one thinks of 14 δώδεκα, 17 κλάειν and 20 [λυσιτελήση], or some similar words, as the traces are so faint as to be undecipherable. The passage would read as follows: '<The youngest had been abroad for so long> that <the sisters wouldn't even know who was who> if they met in the street or a temple (they had not seen each other for more than *twelve* or thirteen years), but their brother Akademos, here present, recognized his own sister: when he went to Lemnos, he *wept* when he saw her. And yet the lawgiver believed that orphan children should not be brought up separately or in a haphazard way but wherever *it would be to their advantage* to be reared. Read me the law. LAW.'

Ff. 137v–136r contain parts of a different speech. One reads personal names and toponyms such as Φίλιππος (ll. 9, 10, 17, 26–27, etc.), Διώνδας l. 5, Δημοσθένης l. 6, Θηβαίους l. 10, and probably Βυζάντιον l. 19, as well as phrases such as διὰ τῶν ὑμετέρων κινδύνων ὥσπερ καὶ πρότερον τοὺς Ἑλληνας ἐλευθερῶσαι ll. 1–2, εἰ παρὰ Φιλίππῳ συλληφθέντες ἡμεῖς ἐκρινόμεθα ll. 17–18, εἴτ' οὐ δεινόν, ᾧ ἄνδρες Ἀθηναῖοι, εἰ ὑπὲρ τῶν αὐτῶν ἡμᾶς δεήσει πρὸς τοὺς ἀντιπάλους καὶ πρὸς ὑμᾶς κινδυνεύειν ll. 24–26.

A hypothetical identification may be ventured by putting the pieces of this mosaic into a historical context.¹¹ It is known that Hyperides, just like Demosthenes, was strongly opposed to Philip and the rising power of Macedon. We know that in 340–339, Philip besieged Byzantion; at the same time, Demosthenes played a decisive role in obtaining for Athens the alliance of Thebes. In 338, as a result of Demosthenes' diplomatic successes, our Hyperides seconded honours proposed for Demosthenes. It is also known that in 339, a certain Diondas indicted Hyperides for unconstitutionally proposing these honours. From several sources we know that Hyperides wrote a speech Πρὸς Διώνδαν and was

⁹ D. MacDowell, *The Law in Classical Athens*, London 1978, pp. 92–95.

¹⁰ The reading at l. 16 is ἀναγνωρίσαι, not . . . γνώρισται, as reported by Heiberg and Wilson.

¹¹ G. Colin, *Hyperide Discours*, Paris 1946, pp. 25–27.

acquitted, but not a single book-fragment of this speech has survived.¹² Is it plausible that we have here remains of this lost speech?

It is possible that ff. 174–175 contain parts of the same political speech, as indicated by the occurrence of such names as Philip and Demosthenes, and words and phrases such as πόλις, τῶν ἀγώνων, ἀγῶνας ἠγωνίσθαι, αὐτοὺς παύσασθαι.

In brief: thanks to digital image enhancement, parts of at least two speeches by Hyperides that were considered lost, the Πρὸς Τίμανδρον and the Πρὸς Διώνδαν, have been identified in the Archimedes palimpsest, and it is possible that more still lurk in the remaining three bifolia. Further work will be needed to establish the exact nature and extent of the text. More secure results could be obtained, one hopes, if the imaging and enhancement process is perfected with special reference to these folios.

The present find sheds new light on the question of the survival of Hyperides in late Antiquity and Byzantium. Unlike Demosthenes', his work seems to have had a limited transmission. Only a few quotations from Hyperides' speeches were available until 1847, when the first extensive papyrus fragments were found. Now we know of four papyri containing substantial remains, all datable between the 2nd century BC and the 2nd century AD,¹³ as well as smaller fragments.¹⁴ On the other hand, since not a single parchment manuscript of Hyperides had been known to exist, it has been generally assumed that his work did not survive into the Byzantine period,¹⁵ despite two pieces of evidence to the contrary: the claim of Patriarch Photius in the 9th century that he had read Hyperides,¹⁶ and that of Alexander Brassicanus in the 16th that he had seen a codex of Hyperides in the library of Matthias Corvinus.¹⁷

The present find confirms that Hyperides did survive well into the Byzantine period, although the exact place and date of the manuscript still remain to be established. The script is a fluent round minuscule of the 10th–11th century, with few accents and abbreviations, mostly at the end of words, written in one column of 32 lines. It bears some resemblance to a group of manuscripts of Greek historians with 32 lines to a page, all copied in the 10th–11th century in Constantinople.¹⁸

Finally, the presence of two unique Classical texts in one palimpsest makes us even more curious as to the place where it was produced. Santo Lucà defined the upper script, which contains a Euchologion, as Salentine minuscule, with the proviso that a scribe might have been active in a geographical area other than Southern Italy.¹⁹ A clue to ascertaining the location where the Euchologion was written could be provided by an analysis of its contents.

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¹² Jensen, p. 131 (or. 20, fr. 95,96). See H. Wankel, *Demosthenes. Rede für Ktesiphon über den Kranz* (Heidelberg, 1976) p. 1014 f.

¹³ Listed in D. Whitehead, *Hyperides. The Forensic Speeches. Introduction, Translation and Commentary*, Oxford 2000, pp. 3–4.

¹⁴ Some listed in Whitehead, *Hyperides*, pp. 473–476. See also R. Kassel, *Babingtons Hyperidesfragmente*, *ZPE* 125 (1999) 75 f.

¹⁵ Whitehead, *Hyperides*, p. 2: 'Not so much as a single one of them [speeches], it seems safe to say, has survived on parchment, and how many (if any) might have been copied on to parchment only to be subsequently lost is a question to which prudence dictates a discouraging answer.'

¹⁶ Photius, *Bibliotheca*, Cod. 266, see N. G. Wilson, *Scholars of Byzantium*, London 1996², p. 95 and N. G. Wilson, *Photius, the Bibliotheca: a Selection Translated with Notes*, London 1994, pp. 4–5.

¹⁷ A controversial and much discussed piece of evidence; see N. G. Wilson, *Some notable manuscripts misattributed or imaginary*, *GRBS* 16 (1975), pp. 95–101, and a full discussion in L. Horváth, *The lost medieval manuscript of Hyperides*, *Act. Ant. Hung.* 38 (1998), pp. 165–173.

¹⁸ J. Irigoin, *Les manuscrits d'historiens grecs et byzantins à 32 lignes*, in *Studia codicologica*, hrsg. von K. Treu, Berlin 1977, pp. 237–245; reprinted in J. Irigoin, *La tradition des textes grecs. Pour une critique historique*, Paris 2003, pp. 295–309.

¹⁹ S. Lucà, *Su due sinassari della famiglia C ...*, *ASCL* 66 (1999), pp. 51–85; pp. 56–57 and n. 18.