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Orientalische Recht *Orientalische Recht und Recht der Griechen und Römer*. By J. Kohler and L. Wenger. I vol. Octavo. Pp. 302. Leipzig and Berlin: B. G. Teubner, 1914. M. 9; Leinwand, M. 11; Halbfranz, M. 13.

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The Classical Review / Volume 30 / Issue 03 / May 1916, pp 86 - 89

DOI: 10.1017/S0009840X00010106, Published online: 27 October 2009

Link to this article: http://journals.cambridge.org/abstract_S0009840X00010106

How to cite this article:

C. H. W. Johns (1916). The Classical Review, 30, pp 86-89 doi:10.1017/S0009840X00010106

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in the *De Victu Acutorum*. It would seem that before Hippocrates the diet in acute diseases had followed no rule. Galen notes the many digressions of this treatise. He also compares the various doctrines of the *Cnidian Sentences*, a work now lost, with the Coan. Without entering into the details of this controversy I may say briefly that, according to the Hippocratic school, the Cnidians lost themselves in minute subdivision of diseases, whereas the Coans viewed the marches of disease more broadly, with an eye to the main issues—as prognosis in fact. The Cnidian method was apt to lose itself in superficial or accidental details. In our own times we recognise every day these two classes of observers—the class which, as conspicuously in the Churches, has an acute and anxious eye to differences, not always discerning the facts which matter from those which do not; and the class which is disposed to a more comprehensive outlook. But of course neither class can hold all the field. The Coan school was, in its own time, justified in its large practical and sensible survey of disease; but now, armed as we are with instruments of precision and with the method and results of experiment, we can more fruitfully devote ourselves to the study of varieties without losing grip of the more universal. However, Galen may have made too much of these rival differences; for the style in which Hippocrates brings disease before us is not only broad in outline, but is masterly

also in *characteristic* details—‘groupés avec art,’ as Littré says. I need not remind the reader that Plato, an admirer of his great medical contemporary, was also a master of the larger conceptions.¹ The ‘ataxy’ of which here and there Galen accuses Hippocrates lies in rhetorical order and phrase rather than in inconsistency of main ideas. The modern style of Galen is very different from the austere and pregnant style of the ancient author. It was in this respect that Littré found Hippocrates difficult to translate. But what a noble style it is; apparent even in such a scrap as this, which happens now to fall under my eye—

καίτοι σωτηρίην ἢ θάνατον φέρει γυγνωσκόμενα ἢ ἀγνοούμενα τὰ τοιαῦτα.

In conclusion, I may note a remark of some domestic interest. Galen points out that in the time of Hippocrates it appears that few private houses had the arrangements for a bath; the proper attendants, the means of heating without annoyance from smoke, and abundance of water were wanting. It would seem that for a bath in a private house hot water had to be fetched from elsewhere.

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¹ The reference in Phaedrus is to the Hippocratic treatise on *Ancient Medicine*. Some critics, I think with justice, have perceived some quality of Socratic irony in these weightier and probably authentic books.

ORIENTALISCHE RECHT.

Orientalische Recht und Recht der Griechen und Römer. By J. KOHLER and L. WENGER. I vol. Octavo. Pp. 302. Leipzig and Berlin: B. G. Teubner, 1914. M. 9; Leinwand, M. 11; Halbfranz, M. 13.

THIS work is the *Erste Hälfte* of *Allgemeine Rechtsgeschichte*, which is the *Siebte Abteilung* of *Die Kultur der Gegenwart*, a vast and encyclopaedic work edited by Paul Henneberg.

Professor Josef Kohler, the well-

known expert in Comparative Law, here presents first an introduction dealing with the beginnings of law and the laws of primitive peoples, then a fuller exposition of the laws of Oriental folk, the separate introduction to which deals with the half-civilised peoples of America and Asia, the Aztecs, Incas, Maya, Malaysians, and Mongols. The Orientals include Babylonians, Assyrians, Egyptians, Israelites, and Jews, Arabs and those who professed Islam, Indians, Buddhists, Persians, Arme-

nians, Chinese, and Japanese. Leopold Wenger treats the laws of the Greeks and Romans under subject headings.

After a masterly introduction, in which he emphasises the influence of Roman law upon mediaeval and modern law systems, Wenger deals with the Roman writers on law. He notices the sources of our knowledge, and dividing Right into public and private, follows out systematically the divisions of Greek and Roman law, devoting a few lucid phrases to each. This should be serviceable as a syllabus on which to work. There is appended a thoroughly up-to-date sketch of the literature. It is deplorable to realise that no English author has written anything worthy of note on the subject.

The whole is a triumph of condensation, to which lucidity has by no means been sacrificed. The student of Comparative Law should find this treatise a useful textbook, enabling him to set the civilisation of each of the peoples concerned in its place in a comprehensive system. The work is carried out with a wholesome restraint. Fearless in the expression of opinion, it nevertheless abstains from riding hobbies to death. The best attested results seem to have been impartially collected from all sources, and the expert will be grateful for having his attention called to many facts which his absorption in his own restricted area might tempt him to ignore or overlook. He will weigh these facts and illustrations and consider them further in the light of his own special knowledge.

It would require almost encyclopaedic knowledge to review each section critically, and demand more space than can be allotted here, even to appraise the portions with which the reviewer can deal in full. But the aim of the undertaking is to present each section as a true picture; in general outline, faithful to the main features, yet so as to receive and furnish illustration to other sections. The results are easy to consult and their arrangement clear. The reader will be fascinated by the treatment as a whole, and we trust be spurred to fresh research in many directions. An index would have been a welcome boon from any point of view.

One is used to the patient collection and review of facts rather than to well-considered judgments upon them, and so apt to regard German works as useful to consult rather than to follow. But here we too often find a haughty disregard of facts. It is obvious at a glance that Kohler's work will have to be rewritten in the face of well-known facts. Here, as in his former work on the Code of Hammurabi, he has been misled by his understudies, though he could have found many young students in France and America only too ready to fag for him.

It is hardly correct to speak of *Chaldäische Religion* in the third millennium B.C. There is no mention of Chaldaea at any such early date, and with all the close likenesses of the religions of different cities and states in Babylonia, it must have been long after Babylon became the metropolis before one could properly speak of a Babylonian religion. Chaldaean is a loose expression carried back without warrant from Greek writers, and it is better to speak of religion without qualification. For the points in which law was dependent on religion were such as were common to all the religions professed in the land so far as we yet know them. It is more than probable that the development of law owed little to religion, which rather took good conduct under its sanction than laid down its rules.

It is well to contrast the Sumerian and Semitic elements in Babylonian law, but both were Babylonian. Much of the Babylonian law set out in Hammurabi's Code is Sumerian. But the distinction is rather cultural than racial.

The people who called themselves Kashshu have been identified with the Greek *Κασσαίοι*, and for less reason with the *Κισσίοι*, but are now usually known both in French and English as Cassites or Kassites. The last quoted is the usual form also in Germany, and there really is no reason why the poor folk should be called out of their name and appear as Kassiden (p. 62). As hundreds of their legal documents came to Europe a few years ago, it is only a misfortune of modern scholars and no detracting to the old conquerors that

so few of these documents are known to Kohler. They contain many new and interesting contributions to the study of ancient law, and Kassite influence affected the Assyrian customs where these differed from the old Babylonian model. Some day the present owners of these documents in Europe and America will doubtless see fit to publish them, and we shall meet with many surprises.

The reader must be warned not to press the meaning of 'hierarchy' as used by Kohler. The series of officials, despite the wide influence of religion on daily life, show remarkably few instances of the priestly classes; scarcely as much as in the monastic days of Europe. Germans have a *penchant* for calling every official whose functions they cannot define either 'priest' or 'eunuch,' to their own confusion as well as that of their readers. It is doubtful whether any of the eponyms to whom Kohler refers on p. 63 were of a priestly rank. The whole question of *Retrakt*, or withdrawal from a contract, requires more careful handling than is evidenced by the concise summary given. The archives from which most of the Assyrian legal documents come were restricted to the business transacted for the royal estates and Court officials at Nineveh. The few examples of private transactions hitherto discovered follow a different model. This restricted character of the official business is not sufficiently recognised. It should also be pointed out that the high rates of interest were only to be paid in default of repayment of the capital at the stipulated date, and naturally officials responsible to an imperious master, such as an Assyrian King, would be exceptionally anxious to ensure themselves against risk. There is no evidence that ordinary business in Assyria was more grasping than in Babylonia. In general, the differences between Assyrian and Babylonian legal transactions, pointed out by Kohler, mark the contrast between the attitude of a lord to his tenants or subjects and that of equals acting on business lines, rather than any difference between national ideals. Nevertheless, the sketch of the facts given by Kohler is painstaking and useful to work from.

It may be doubted whether Nebuchadnezzar did destroy the Assyrian Empire, but the Neo-Babylonian Empire did more or less owe its short-lived power to his military talents and the decay of Assyrian might. The legal documents of this period have been published in thousands, and mostly concern private individuals and their business. They have been abundantly and even exhaustively worked over by many scholars, and the material already digested affords Kohler scope for a juster view. Much of this old commerce exhibits close parallels to modern business habits, and there seems to be very little to which we cannot agree.

The selection of Kurus as representing the original form of the name Cyrus is surely unfortunate, and it is to be hoped that no one will mistake for history Kohler's reconstruction of the political situation leading up to the accession of Cyrus. It did not require much reflection or independence of thought to achieve what Kohler has written on the Persian Period. But he appears to misunderstand a great deal. The comparison of the continued use of Babylonian language and legal terms under the Persian Kings to the use of Latin in mediaeval law documents is oddly uninformed. Why should not the Babylonians continue to use their language? There is no shred of evidence that any but a few officials used Persian. As Babylonian died out Aramaic took its place. Even the Greek conquest did not displace it from general use, and Babylonia never learnt much from Greece.

When the Professor proceeds sapiently to point out alterations which arose in the Persian Period, he has the ill luck to pitch upon the 'bow-land' tenure, first pointed out by me, as an example of a fresh custom; he has forgotten that at the same time I showed that the Persians had adopted it from Assyria. The sneer at the Banking houses may be left to their modern descendants to resent. It does not appear to rest on any evidence. In passing, the reader should beware of taking the term as accurate. The Egibi House was a big firm and did a great deal of business that is now done by a Bank,

but it is usually misleading to introduce metaphor into technical works.

Kohler seems to set more store by the ethics of the Bible than most German theologians are disposed to do, but he might allow the civilisation to speak for itself and remember that the reproaches hurled by enemies at Babylonian morals were capable of being retorted with good ground. The Bible authors justly deemed these things shameful; so did those among the Babylonians who held like views to ours. But then as now these evils went on and then as now we have no proof that priests were more addicted to evil practices than laymen. The religion which every man really believed was greatly shaped by his own fears and wishes. It is not to be judged by the practice of its professors, but by the tenets it taught them to hold and the extent to which it succeeded in modifying their practice.

Enough emphasis is not laid on the fact that the sources of our knowledge are local groups of documents. If one

set of documents exhibits more examples of free action by the priestesses of Shamash it is because that set comes from a centre of Shamash worship. It is probable that the corresponding group of documents from Babylon would show equal freedom on the part of votaries of Marduk. Hammurabi gave them special privileges. Also it is very doubtful if these ladies were priestesses in any but the contemptuous sense usual in German minds. They were more like nuns or vestals.

Pure misprints are 'Lasa' for 'Larsa,' p. 57; 'orkiuti' for 'urkiuti,' p. 59.

Some of the mistakes pointed out above may well be due to the effort to be concise, but it is possible, with more care, to be accurate as well as concise. So too, contrary to the usual opinion, it is possible to be popular without misrepresentation of facts even in these days of democracy. But alas! it is given to few to attain such perfections.

C. H. W. JOHNS.

PLUTARCH'S LIVES.

Plutarch's Lives, with an English Translation by BERNADOTTE PERRIN, in ten volumes. Vol. I.: Pp. xix+582; Vol. II.: Pp. ix+631. Small 8vo. London: William Heinemann. New York: The Macmillan Company, 1914.

IN a series such as the Loeb Classical Library the appearance of the first two volumes of *Plutarch's Lives* is an event of importance. More than any other ancient classic the *Lives* occupy something of the position of a popular favourite. Plutarch is not widely read in schools, and the requirements of 'Greats' at least hardly call for more than a comparison of the *Life of Solon* with the *Ἀθηναίων Πολιτεία*. Very many lovers of the classics, then, discovering Plutarch in later life, experience much the same feelings as did Keats' Cortez when he gazed on the Pacific. And, indeed, when we look upon life as portrayed to us by Plutarch it is as though we gazed upon a wide landscape bathed in the mellow light

of an autumn sun: nothing is harsh, nothing is violent; if there is often simplicity, there is no crudity.

To present such an author once again to the English-speaking public is something of a privilege, and Professor Perrin has undoubtedly shown himself worthy of that privilege. His text is based upon the agreement of the Sintensis and Bekker texts, and therefore lies rather outside the scope of this review. I have read much of the translation continuously and some part by snatches, the better to test its general effect. Professor Perrin has wisely shunned all artificiality and preciousness of style, and has been content to render his author in plain and simple English prose, which is very easy and very pleasing to read. I have not been able to compare the version with the original Greek at all points—

neque agere hoc patriā tempore iniquo—

but, if I may say so, Professor Perrin follows his author very closely, even at times too closely; for Plutarch's Greek