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Wyse's *Isaeus The Speeches of Isaeus, with Critical and Explanatory Notes*. By William Wyse. Cambridge: at the University Press, 1904. Pp. Ixiv + 735. 18s.net.

T. Nicklin

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that he danced in the midst of the assembly and shocked the king by exposing himself. So the king said

'Pleasant is your cry, brilliant is your back,

But to such a dancer I can give no daughter, sir,
of mine.'

BENARES, April 20, 1905.

C. M. MULVANY.

* * *

CICERO, *In Verr.* II. I. § 149.—*Ut uno minus teste haberet, Habonio opus in acceptum rettulit*, etc. 'To have one less witness (against him), he gave H. a quittance for the work.' Prof. Peterson (*supra* p. 160) suggests *ageret* for *haberet*, which *pace* Madvig he thinks 'is an impossible reading.' But Prof. Peterson himself quotes a parallel from the same book, § 117 *uno signo ut sit minus*, 'supposing there be one seal too few.' If *uno signo minus* can be subject of *sit*, why cannot *uno minus teste* be object of *haberet*?

Christ's College, Cambridge.

H. RACKHAM.

* * *

THE IDES OF MARCH.—On the Ides of March the *plebs* celebrated the *Annae festum geniale Perennae* (corresponding to the chief day of the Hindu *Holi*) near the banks of the Tiber (Ovid, *Fasti* iii. 523-42, 675-96). Rome was, therefore, empty of the lower classes. Is this why the nobles chose the day for the assassination of Julius Caesar?

C. M. MULVANY.

BENARES, April 20, 1905.

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ON JUVENAL, *Sat.* i. 144.

'Hinc subitae mortes atque intestata senectus.'

The difficulty of explaining the word 'intestata' is well known. It has been pointed out that the meaning required by the context is that the foolish habit of bathing shortly after a heavy meal prevented men from living to old age, and Mr. Housman (*Class. Rev.* vol. xiii. p. 434) tries to force this meaning out of 'intestata' in defiance of Latinity. By the trilling change of one letter I propose to read 'intentata,' *i.e.* 'intemptata senectus,' which seems to give the desired meaning 'old age untried,' that is 'old age unreached,' *i.e.* 'they never reached to old age, but died young.'

E. C. CORELLI.

Pembroke College, Oxford.

REVIEWS.

WYSE'S *ISAEUS*.

The Speeches of Isaeus, with Critical and Explanatory Notes. By WILLIAM WYSE. Cambridge: at the University Press, 1904. Pp. lxiv + 735. 18s. net.

It is a matter for congratulation to English scholarship that we have now an edition of *Isaeus* *τετραγώνως* *καὶ*—almost—*ἀνεν ψόγου*. Mr. Wyse gives us, besides a text (pp. 1-174), reconstituted on the soundest lines of criticism, an exhaustive commentary (pp. 175-723), indices of proper names, of subjects, of certain Greek words, two pedigree tables, and a Critical Introduction.

To refer first to this, Mr. Wyse sums up (§ 1) the conclusions of modern scholars that all other MSS. of *Isaeus* except Q are derived from A. He then (§ 2) tells the story of this MS., its provenience—to Anglicize a useful French term—in the monastery on Mount Athos, its purchase by Cripps and subsequent fortune till it came to repose in the British Museum. Three more sections describe the MS., its corrections and its faults. Of the other independent witness, Q, Mr. Wyse has been able to pro-

cure photographs, and he demonstrates that, while of inferior value to A, it is nevertheless useful for checking the readings of A. A sketch (§ 7) of the MSS. of Dionysius' rhetorical work, and an exhaustive review of 'editions and subsidia' complete the Introduction.

Mr. Wyse defines the leading purpose of his edition as being 'to show by analysis of the extant speeches that ancient scholars had a juster appreciation of the orator's art than is shown by modern writers on Greek Law, for some of whom his unsupported statements appear to carry the authority of decisions of a Supreme Court.' He undoubtedly does for his author what editors of other orators too seldom attempt: he makes the reader understand that a speech for one party to a suit does not set out to give the arguments for both sides. He quotes Dionysius' words that *Isaeus* *πρὸς μὲν τὸν ἀντίδικον διαπονηρεῖται, τοὺς δὲ δικαστὰς καταστρατηγεῖ, τοῖς δὲ πράγμασιν, ὑπὲρ ὧν ὁ λόγος, ἐκ παντὸς πειρᾶται βοηθεῖν*. Taking this as his text, Mr. Wyse points out at every opportunity what the other party was likely

to have said, and not content with this, conveys to us generally a suggestion that, had we but got the speech from the other side, we should probably admire Isaeus' unscrupulous skill the more, while siding the less with his client. In all this the thoughtful student cannot but see an example for other editors to consider. Yet, I must confess to grave misgivings when face to face with Mr. Wyse's results in practice. Did Isaeus never have a case in which the jury might equitably have given a verdict in his favour? Are the twelve speeches preserved to us without exception specimens of what he could do in a bad case? If not, ought we not to understand that in most suits there is an element of justice in each side, and that something not merely specious, but sound and equitable can be urged by both litigants? Mr. Wyse writes as though every speech was throughout dishonest, and, without stating so plainly, hints at every point that the fact was otherwise than it is represented, or admitted of another explanation or complexion, that the law was unmistakeably against the speaker, and that he is bluffing the jury or inciting them to override it. Reflexion will show that the most straightforward speeches of the most upright orator could not support so riddling an attack.

It would be impossible in the limits of a review to deal satisfactorily with even a tithe of the questions which this monumental work must raise. It will be best to dismiss it with the unqualified judgment that for years it will be indispensable for all who would refer to Isaeus' words for any purpose, and that its general sanity of interpretation will require a dissentient to justify himself by adducing cogent considerations in his favour.

After thus plainly recording my opinion of Mr. Wyse's work, as a whole, I should like to discuss a few of the more manageable topics suggested by a perusal of the book. Solon directed that a man might τὰ ἑαυτοῦ διαθέσθαι, ὅπως ἂν ἐθέλῃ, ἂν μὴ παῖδες ὦσι γνήσιοι ἄρρενες, ἂν μὴ μαιῶν ἢ γήρως ἢ φαρμάκων ἢ νόσου ζῆνεα ἢ γυναικὶ πῦθόμενος, ὑπὸ τούτων του παρανοῶν, ἢ ὑπ' ἀνάγκης ἢ ὑπὸ δεσμοῦ καταληφθεὶς ([*Dem.*] 46 § 14), where it is at least noteworthy that legacies to daughters in place of male collaterals would seem to be always open to attack.

Now, in the first speech of Isaeus we have the case of a man who died *sine prole* leaving a will drawn up some years before by which some distant relatives benefited. Isaeus' clients were less distant relatives who con-

tested the validity of the will. It was admitted on both sides that the testator had intended on the day before his death to make some alteration in the will: the beneficiaries said, to make some obscurity unambiguous, Isaeus argues—very likely, as Mr. Wyse says, διαπονηρυνόμενος—to leave legacies at least to his neglected clients. Our editor takes occasion from this to criticize adversely the readiness of Athenian juries to set aside wills on any plausible reason. His comments betray a serious limitation in his outlook. He views the whole question as a lawyer would: Solon's law, its meaning once determined, settles for him the issue. But, as has been remarked before now, the legal mind is not the best suited to deal with great questions: a statesman will seldom see eye to eye with a lawyer. And here the Athenian right to cancel a testator's will was but an assertion of the same right which we in England recognized in the Laws of Mortmain and more recently in the augmented scale of Death Duties. That the interference with wills was not severely felt may be inferred from the fact that we hear of no complaints that Athens gave her citizens insufficient liberty in this regard. Disappointed heirs of course affected to think now that wills should hold under all conditions, now that any and every excuse justified their supersession; but a little experience of the world is sufficient to reveal the fact that even Christians today are sometimes dissatisfied with any will under which they do not secure for themselves the whole property of the testator.

A perhaps better known speech is the fifth, which introduces us to so many of the distinguished family of Dikaiogenes. Without recapitulating the incidents which led to the suit, the reader may be reminded that the issue directly involved was whether a written bond had been duly carried out. One side, for which Isaeus advised, declared that the bond was to be understood in the light of certain oral undertakings, given at the time: the other insisted on the letter of the bond. Mr. Wyse here gets little further than to point out that the other side probably had a very different account to offer of the preceding relations between the parties and to exhibit the openings that there were for that other side to make a reasonable reply. The guarantor, 'Leochares,' says he, 'had a reasonable defence.' He exposes with ruthless acumen the places where we, who know nothing more of the case than the speech tells us, can guess that unsupported assertions are made. The in-

disputable facts are scarcely appreciated that Leochares' principal had first inherited a third of his cousin's property under a will produced by his own father, and then after twelve years had taken over the whole property under another will then produced by himself, and that a jury afterwards found that the witnesses who had deposed to this will (or both wills) had been guilty of perjury. Yet these facts properly weighed must make it very doubtful that the bond, whatever its letter, in the spirit directed that Isaeus' clients should receive their share as out of the now diminished estate instead of as out of the estate originally bequeathed. Were not Mr. Wyse possessed by the thought of Isaeus' chicanery, he would recognize that, even with justice on their side, Isaeus' clients would necessarily resort to some such line of argument as we find in the speech when pleading for an equitable decision on the whole case, and not on the written bond alone. Indeed, so far as this case goes, we may accuse the editor of carrying too far his efforts as *advocatus diaboli*: for he writes to instil 'distrust and circumspection' into our minds; that 'Menexenus IV,' Isaeus' principal client, 'was not a novice in litigation,' but he does not do equal justice to the experience on the other side.

On another subject a controversy has raged since 1877, and it is satisfactory to find Mr. Wyse here with unerring prudence, after weighing all that has been written on the subject, pronouncing against a specious novelty. In the third speech, the issue mainly turns on whether one Pyrrhus contracted a full and legitimate marriage with Nicodemus' sister. According to the speaker, the marriage was not regular because Pyrrhus presented no marriage offering (*γαμηλία*). This fact, he argues, shows that neither is Nicodemus' deposition true that Pyrrhus had the lady properly betrothed to him: she must, he declares, have been simply an *ἐταίρα*. Buermann however thought that he found here evidence for believing that side by side with the legitimate wife, there might be an Athenian woman, *ἐγγνητή* indeed but only as a *παλλακή*, yet her children legitimate. The theory supplies an interpretation of § 79 neither better nor worse than the orthodox view. 'If,' says the speaker according to Buermann 'Pyrrhus had (as is alleged) been induced to have her betrothed to him, he might have been induced also (his passion for her being as strong as is alleged) to present a marriage offering for

her' (ὁῦλον γὰρ ὅτι, εἰ ἐπέσθη ἐγγνήσασθαι, ἐπέσθη ἂν καὶ γαμηλίαν ὑπὲρ αὐτῆς τοῖς φράτερσιν εἰσενεγκεῖν). So far as this sentence goes, Buermann might still maintain his view, but the general drift of the speech supports Mr. Wyse's contention that the suggested interpretation of § 79 is 'perverse.' In fact, Buermann's *ἐγγνητή παλλακή* is simply a *γυνή* under another name. As to Müller's ingenious fantasy that, in consequence of the drain on the population caused by the war, the Athenians from 411-403 allowed an otherwise unknown system of what may be called morganatic unions simultaneous with regular marriages, our editor has no hesitation in pronouncing it unproven; a 'coacervation of hypotheses' is his comment.

Mr. Wyse is, undoubtedly I think, right in entering a *caveat* against the prevailing view, derived from Arist. 'Αθ. Πολ. 42, that the illegitimate offspring of an Athenian father and mother were admitted to the citizenship. Aristotle's words are *μετέχουσιν μὲν τῆς πολιτείας οἱ ἐξ ἀμφοτέρων γεγονότες ἀστών. ἐγγράφονται δ' εἰς τοὺς δημότας ὀκτωκαίδεκα ἔτη γεγονότες. ὅταν δ' ἐγγράφονται, διαψηφίζονται περὶ αὐτῶν ὁμόσαντες οἱ δημόται, πρῶτον μὲν εἰ δοκοῦσι γεγονέναι τὴν ἡλικίαν τὴν ἐκ τοῦ νόμου . . . δεύτερον δ' εἰ ἐλεύθερός ἐστι καὶ γέγονε κατὰ τοὺς νόμους. ἔπειτ' ἂν [μὲν] ἀποψηφίσωνται μὴ εἶναι ἐλεύθερον, ὁ μὲν ἐφήσιν εἰς τὸ δικαστήριον . . . κὰν μὲν μὴ δόξῃ δικαίως ἐγγράφεσθαι, πωλεῖ τοῦτον ἡ πόλις, ἐὰν δὲ νικήσῃ, τοῖς δημόταις ἐπάναγκες ἐγγράφειν. Mr. Wyse, following up a remark of Mr. W. L. Newman's, interprets *ἐλεύθερος* as 'of citizen birth.' He does not notice that Aristotle undoubtedly means that appeal might be made on the question of *ἐλευθερία* and of legitimate birth. Any one who has made a comparative study of literature will recognize that *μὴ εἶναι ἐλεύθερον* is here the proper abbreviation (to avoid being tedious) for *μὴ εἶναι ἐλεύθερον καὶ γεγονέναι κατὰ τοὺς νόμους*. There can therefore be no question of *νόθοι* who were nevertheless *πολίται*.*

I have intimated that as a rule Mr. Wyse errs if at all, in the direction of undue suspicion of his author's statements. But once at any rate this caution would seem to have deserted him. In 3 § 61 the MSS. give a sentence which no two editors dispose of in the same way, viz.:—*ἵνα οὖν μὴ παρὰ τοῦ ἐντυχόντος τῶν κλήρων αἱ λήξεις τοῖς ἀμφισβητεῖν βουλομένοις γίνωνται, καὶ μὴ ὡς ἐρήμων τῶν κλήρων ἐπιδικάζεσθαι τινες τολμῶσι, τούτου ἕνεκα τὰς ἐπιδικασίας οἱ εἰσποιητοὶ πάντες ποιοῦνται.* The editor's

note on this covers two pages and chronicles eleven scholars' opinions. He himself remarks 'the seat of all this perplexity is the thought' and builds his imputation of a deliberately misleading and vague sense on the hypothesis that 'sous adopted by will . . . were ordered by the law to submit their titles to the consideration of a court.' For this he quotes Isaeus *fr.* iii. 6 *Supp.* οὐ δέ τὸν ἐπιδίκον κρατεῖσθαι κλῆρον πρὸ δίκης. But after contemplating the many places where Mr. Wyse declares Isaeus' statements in the complete speeches preserved to us to be dishonest misrepresentations, it is difficult to resist the suspicion that an isolated fragment may be ten times more misleading. Mr. Wyse elsewhere refers to *Isae.* 6 § 3, 9 § 3, 10 § 9 and [*Dem.*] 44 § 19 as supporting his statement of the law: but not one of these passages seems entirely convincing. Six lines of Dobree are here worth all the other editors' lucubrations put together. 'Sensus,' he says, '*ne, cum a*

quovis facta esset ἡ λῆξις, liceret τῷ βουλομένῳ istum in ius vocare, et ab illo in se transferre hereditatem. Anglice, *to prevent a man of straw from claiming the estate, in order that his suborner may prove a better title.* Nempe, cum semel facta esset ἐπιδικασία, non licebat litem possessori intendere, ἀμφισβητεῖν, nisi τῷ παρακαταβάλλειν.'

There are many other questions interesting to the student of Athenian law which Mr. Wyse touches on, but it is impossible in a review to deal properly with them. Even where the reader may not agree with the editor, he is supplied with the materials for forming his own opinion—a not unimportant virtue for a durable edition. Mr. Wyse has, in fact, produced a work which others will be engaged for some time in digesting, criticizing, and incorporating into our schemes of Athenian law; and no greater commendation can perhaps be bestowed upon it.

T. NICKLIN.

LIPSIUS'S GREEK ANTIQUITIES OF SCHÖMANN.

Griechische Alterthümer. Von G. F. SCHÖMANN. Vierte Auflage. Neu bearbeitet von J. H. Lipsius. II. Die Internationalen Verhältnisse und das Religionswesen. Berlin: Weidmannsche Buchhandlung, 1902. Pp. vi+644. M. 14.

THIS useful compendium has already established its claims on the student so well as to be now in its fourth edition. It will therefore not need a detailed examination in the present review.

The present volume falls into two unequal parts. The first, which occupies 132 pages, is a brief sketch of the international relations amongst the Greek states. From an early period we find that there was an 'unwritten law' which states felt bound to obey more or less faithfully: a rule of conduct vague indeed, but yet of great value as evidence of that spirit of humanity and justice, which in Greek life was continually striving for mastery over the turbulent passions of our nature. War was then rather than peace the normal state of society: yet in some respects war was subject to more honourable rules than it now is. Jurists tell us that a formal declaration of war is not required by international law; but the Greeks

thought it to be necessary. Rights of sanctuary existed, and under certain circumstances claim might be made for quarter or the right of ransom; the burial of the dead might be demanded also as a right. The person of the herald was sacred. Letters of marque were issued to privateers; and there was a state intermediate between war and peace, when reprisals might be made or the goods of another stolen, resembling the relations between England and Spain in the West for a part of Elizabeth's reign. One amenity of ancient life must have had a powerful influence for good: proxy and the rights of strangers. But the most powerful influence of all was that of the great sanctuaries, Delphi, Delos, and Olympia, and the international Games. We see in the course of history continued attempts at union: local political unions, such as that of the Amphictyons, leading up to the great idea of racial union, which was never to be fully carried out. The space given to this sketch is too brief to allow of its being more than a sketch; but it is well done.

Religion, which fills the rest of the book is treated in the same general way as the politics. There is no examination of the