

Review

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as proof of the presence of different writers. The whole question is very difficult, as it is often by no means easy to distinguish hands, and in many editions insufficient care has been exercised in noting changes of hand; so that it is dangerous to make general statements on either side. Many existing ascriptions require to be tested before they can be relied on as evidence. As examples of what I have said above concerning the use of a special script for subscriptions I may cite *P. Lond.* v. 1662, where not only the colour of the ink and the forms of the letters but the actual wording of the subscription indicate that the subscribing γαρμαρεὺς wrote the body of the document and yet the subscription is written in a sloping, that of the document in an upright, hand; or *P. Lond.* 1716, where document and subscription alike are in the quite unmistakable hand of Dioscorus but the subscription is in a script of entirely different type from that of the document.

H. I. BELL.

*Erbrechtliche Untersuchungen auf Grund der gräco-ägyptischen Papyrusurkunden.* By HANS KRELLER. Leipzig and Berlin: B. G. Teubner, 1919., 8vo. Pp. xii+427.

There is in the Greek papyri a good deal of material illustrating the law and practice of inheritance in Graeco-Roman Egypt. Actual wills, indeed, though absolutely they are fairly numerous, are very unevenly distributed in respect both of locality and period, so that it is impossible to trace with any completeness the history and extension of testamentary formulae; but apart from these, there is in documents of other kinds much evidence for the law of succession. Moreover, in this sphere even more than usual it is of interest to trace the interaction of three distinct (and, in some points, very diverse) systems of law, the Egyptian, the Greek, and the Roman. It is, then, a field of study at once attractive and fruitful that Dr Kreller has set himself in this monograph; and though in a study like papyrology, which is constantly being transformed by the discovery of new material, finality is impossible, it may truly be said that his volume is exhaustive so far as the already available evidence is concerned, and is likely for long to remain the standard authority on its subject.

It would no doubt be possible, at least to some extent, to treat separately the three streams of legal theory and practice whose confluence produced the law of Graeco-Roman Egypt; but it is certainly more profitable to start, as Kreller does, with the complex system revealed in the papyri, and to discuss the elements combined in it as occasion demands. The Egyptian law, embodied for the most part in documents written in the native language, can be treated by those ignorant of that language only at second-hand, and its influence is in any case less direct and more indefinite than those of Greece and Rome. Between these latter there is a striking difference. The Greek law of inheritance has to be ascertained, not directly from codes or single enactments or from legal commentaries, but by inference from the orators, or, in the case of our Hellenistic law, from the papyrus documents; for the Roman law, on the other hand, we have adequate authorities in the juristic literature, and the function of the papyri is, in the main, merely to illustrate the working of the law in detail and to reveal the extent to which the theory was modified in practice by the influence of local custom.

Kreller begins his book with a chapter on the subject of inheritance, including both the assets and the liabilities. On the latter the main subject of discussion is the vexed question to what extent the heirs were responsible for them. Here he decides that no definite conclusion is at present possible, and he very sensibly remarks (p. 47) that this may well be due to the fact "dass das juristische Denken des griechischen Volkes die Frage nach dem Umfange der Haftung überhaupt noch nicht scharf erfasst hatte." In the second chapter he deals with the persons concerned in the inheritance, beginning with a discussion of terminology. The chief problem here centres round the words κληρονόμος, διάδοχος, and διακάτοχος; and he rightly points out (p. 61) that, while definite technical meanings can be distinguished at an earlier period, the Byzantine notaries used the terms with little or no consciousness of any difference; papyrologists have sometimes been too ready to seek in the verbal jungle of Byzantine documents a precision which was quite foreign to the Byzantine mentality. In connexion with Kreller's note on the word κληρος on p. 62 reference may be made to *P. Lond.* v, 1733, 35, which furnishes more definite evidence as to its nature than was previously available.

Chapter III deals with the heir's position in law, in connexion with which Kreller gives (pp. 108-110) a list of returns of property acquired by inheritance, chapter IV with the order of succession among the possible heirs. Here Kreller deals at some length with the preference frequently given to the eldest son, in accordance with old Egyptian custom. On the other hand an equal division among all the children is not

uncommon, as in *P. Lond.* v, 1727; an even better instance is *P. Lond.* v, 1709, for in that case we know that the single son and the two daughters each received a third.

Chapter v deals with the actual disposition in wills, as recoverable from the papyrus documents, and includes a very useful table of known wills. *A propos* of Kreller's remarks on the various forms of "elterliche Teilung," of which, on p. 238, he gives a list, it must be pointed out, as against what he says on p. 239 (*b*) that the example in *P. Lond.* 1727 has, in a somewhat elaborate form, the introductory formulae (*νοοῦντες φρονούντες κ.τ.λ.*) usual in a will; and indeed San Nicolò (*Zeitschr. f. vergl. Rechtsw.*, xxxix, 290 foll.) takes it as a "gemeinschaftliches korrespektives Testament."

On p. 315 Kreller remarks that the written form of will was essential in Egypt, adding "wenigstens ist von mündlichen Testamenten in den Papyri nirgends die Rede." This is no longer true; *P. Lond.* v, 1709 mentions an unwritten will (*ἐξ ἀγράφου βουλήσεως*, l. 28), and there is no question of its legality; on the contrary it is the whole basis of the plaintiff's claim in that document. Another statement which perhaps, but less certainly, requires correction in the light of later evidence is that on p. 335, note 32, that of the *testamentum apud acta conditum* "ist uns in den Papyri nichts erhalten." Part xvi of the *Oxyrhynchus Papyri* will contain a document which very likely refers to the *insinuatio apud acta* of a will; but unfortunately the interpretation of the passage is doubtful, and it is not even certain that the document referred to is a will at all.

At the end of this long chapter v, Kreller deals with the custody and the opening of wills. Finally he gives a number of Addenda, chiefly on documents published too late for notice in the body of the work; and these are followed by good indices.

The work is far more than a mere compilation of the material available; it is a substantial addition to knowledge, and author and publisher alike deserve hearty congratulations on its publication (not indeed its composition, which was in the main completed by 1913) so soon after the conclusion of the war and in the face of so many difficulties.

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