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NOTES ON SOME ROMAN WILLS OF THE 2ND CENTURY FROM EGYPT

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NOTES ON SOME ROMAN WILLS OF THE 2ND CENTURY FROM EGYPT****P.Mich. VII 439 (AD 147)***

Editions: Sanders in *P.Mich.* VII 439 (1947); Arangio-Ruiz and Colombo (1950); Marichal in *ChLA* V 301 (1975); TM 69899.¹

The papyrus preserves a fragmentary *testamentum per aes et libram* of an unknown testator, dated to AD 147 and probably coming from Oxyrhynchus.²

As with all Roman wills on papyrus predating the constitution of Severus Alexander, this piece has been thought to preserve the copy of the testament included in the protocol of opening.³ A clue to this could be seen in the addition written by *m*^l between ll. 17–18 and then deleted (*[in quo sig(n-) Ti. []]*), perhaps a reference to the seal of the *familiae emptor*.⁴ Former editors assumed this note to have been written during the opening ceremony. Were that to have been the case, it might have been crossed out because it had been inserted in the wrong place. The misplacement may have originated from the mention of the *familiae emptor* in l. 17, just above the interlinear addition.

As for the text of the will, some progress in deciphering the writing can be made:

l. 2: *Jętsi quae [e]st in domo [(Sanders); pecun]ia si qua<e> est in domo [(Arangio-Ruiz and Colombo); Jęb. ři (hab]eba<m>?) qua . . . t in domo [(Marichal).*

After the lacuna I read *Jębr*, followed by two letters, which all former editors read as *si*; these could, however, also be the inferior parts of *ęs*, thus pointing to the restoration *muli]ębręs*. The adjective *muliebris*, ‘womanly’, would not be surprising after the reference to the testator’s wife (*u]xori quam dilego quac[um*, l. 1) and occurs in another Roman will on papyrus, *ChLA* XLIV 1300 *recto*, 3; cf. the Greek *γυναικεῖος*, primarily attested in marriage documents, but also in wills and hereditary dispositions: *P.Petr.* II 13, 18.22 (238/7 BC); *P.Münch.* III 80, 25 (AD 103–14⁵); *P.Oxy.* XVI 1901, 65 (VI AD). After *Jębręs*, one can read *quas aut* (the latter *a* can be hardly distinguished because of fiber misalignment, but the upper part of the right oblique can be seen). The descending oblique stroke at the end of the line is also compatible with *a*.

The line can be restored as follows: *muli]ębręs quas aut in domo . [*. The last trace is compatible with *a*, *m* or *r*; it could belong to *a]ut* or perhaps to a word referring to *domo*, e.g. *ę]ea*.

l. 8: *Jęm[.]çø[.]ma Claudi mun[(Sanders); Je . . . t[.]ma Claudi mun[us? (Marichal).*

At the beginning of the line the legacy formula *hąbęto*, ‘let him/her have’ (perhaps *sibi] hąbęto*; see Gaius, *Inst.* 2.193) can be read.

Claudius could be the *familiae emptor* (l. 18) or one of his circle, as witnesses were generally chosen among relatives and friends of the testator (Champlin 1991: 79).

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¹ Digital image available here: <https://quod.lib.umich.edu/a/apis/x-2918>.

² See the supplement *Oxyrhyn]cho Thebaidis* proposed by Arangio-Ruiz and Colombo (1950: 121). The *verso* of *P.Mich.* VII 439 was reused for a Greek letter (so-far unpublished), probably a draft. A close parallel can be now drawn also with *ChLA* XLIV1300, which preserves on the *recto* the fragment of a Roman will written in Latin (see its re-edition forthcoming in *CLTP*; ed. pr. Iovine 2017) and was reused on the *verso* to write a Greek letter; cf. also *BGU* XIII 2244 (AD 186), a Greek copy of a Roman will, with remnants of a letter on the *verso* (*BGU* XIII: 56).

³ For general discussion see e.g. Amelotti (1966: 57, 173–4, 183); Migliardi Zingale (1982: 123); Nowak (2015a: 110–12).

⁴ Arangio-Ruiz and Colombo (1950: 121); Migliardi Zingale (1997³: 39).

⁵ Reiter (1995: 98).

At the end of the line Marichal tentatively restored the word *munus*. However, as the dot-like trace visible on the baseline is not compatible with *u*, but rather with *a*, one can think of the names *Muna[ftianus]* or *Muna[ftius]*, as R. Ast kindly suggested to me. Interestingly, we find an Alexandrian dignitary named Claudius Munatianus in a group of documents from Oxyrhynchus dating to AD 120–28 (*P.Lips.* I 112; *P.Mil.Vogl.* I 26, with *BL* 7.118, and VI 266; *P.Oxy.* LXXII 4859, 4862–3); according to Sijpesteijn (1986: 138) he could be identical with the ἀρχιδικαστής Claudius Munatianus attested in *SB XVIII* 13156 (early II AD), a report of proceedings described as coming from Oxyrhynchus.⁶

l. 10:] *Theodoraē filiae di[e] hac* – or *h(eres) c(urat)* – (Sanders); *T]heodoraē filiae di[l(ectae)] h(oc) t(estamento) · [d(olus) m(alus) a(besto)]* (Arangio-Ruiz and Colombo; Marichal⁷).

Here the legacy section ends: indeed after *T]heodoraē filiae* the formula *d(o) l(ego)* · ‘I give and bequeath’, should be read. This seems to be followed by the *dolus* clause,⁸ remarkably written before the *fideicommissum*, as already noted by Arangio-Ruiz and Colombo (1950: 121).

ll. 11–12:] *ço aporiā mei curam arbi[- - - l - - - heredes (?)] meā committo* (Sanders); *çorporiṣ mei curam arbiṣ[riō - - - l Theodoraē (?) filiae] meā committo* (Arangio-Ruiz and Colombo; Marichal).

I agree with the reading *corporiṣ mei curam arbiṣ[riō]*. As the verb *committo* regularly occurs in Roman wills in combination with *fidei + genitivus personae*, the clause can be restored e.g. *arbiṣ[riō fideique Theodoraē (vel Diogenidis) filiae] meā committo*. In this context, the singular *meā* does not permit the assumption that the testator named one of his daughters as his sole heir (cf. Arangio-Ruiz and Colombo 1950: 121).

l. 14: *p]rascriptum vel subscri[ptum* (Sanders); *quo gener]e scriptum vel subscri[ptum* (Arangio-Ruiz and Colombo; *gener]e* Marichal).

Lines 12–17 preserve the codicillary clause. Previous reconstructions seem to have been based on *BGU* I 326, II 2 (AD 194). However, at the beginning of l. 14 *me* is clear, so that we can restore *a] me scriptum vel subscri[ptum*: thus, the codicillary clause appears very similar to that of *P.Oxy.* XXXVIII 2857, II 21–6 (AD 134) – in which the same phrases, translated into Greek, are to be found – and to *FIRA* III 48, 119 (AD 108) rather than to *BGU* I 326, II 2. Furthermore, it is probable that the words *a me* are to be supplied in the lacuna at the end of *P.Hamb.* I 72, 10 (II–III AD) and in *ChLA* IX 399, 2 (AD 91).

l. 17: *Tirem[* (Sanders; Arangio-Ruiz and Colombo); *Tirem . [* (Marichal)

The name of the scale-holder, *Tirem(?)*, is so far unattested. The sequence should probably be understood as an abbreviated *praenomen* – *Ti(berius)* or *T(itus)* – followed by a *gentilicium*. The third letter seems to be *r*, but it is difficult to find a suitable Roman *nomen*: one can think of the rare *Remius*, unattested in Egypt (R. Ast *per litteras*), or *Remigius* (occurring only in *SB XXII* 15869, 3, AD 396/7). Alternatively, even if it would be less convincing from a paleographic point of view, the letter after *ti* could be interpreted as an *a* drawn with a shape very similar to *r* (cf. *T]heodoraē*, l. 10), thus having the commoner *gentilicium* *Aemi[lius]* (after *m* there is a further trace, compatible with *i*). In any case, the same name should be restored in the interlinear addition in l. 18 *[in quo sign- · Ti. [.em . . .]]*.

ChLA X 427 (2nd century AD)

First edition: Marichal in *ChLA* X 427 (1979); TM 69926.⁹

The fragment, known as the will of Caius Hostilius Clemens, was edited by R. Marichal, who assigned it on palaeographic grounds to the second half of the 2nd century AD.

⁶ See the Report on Papyri sent by Prof. Boak (March 1925): <https://apps.lib.umich.edu/files/libraries/papyrology/acq-reports/Report%20of%20Papyri%20Sent%20by%20Prof%20Boak%2C%20March%201925.pdf>.

⁷ Marichal read *di[l(ectae)]* instead of *di[l(ectae)]*.

⁸ I prefer *h(uic)* to the resolution *h(oc)* proposed by previous editors, as the dative *huic* is written in full in *ChLA* IX 399, 7.

⁹ Digital image available here: <http://berlpap.smb.museum/13210/>.

l. 11: *h[ere]ditas mea . . . i . . . ii fil[- - -]* (Marichal).

At the beginning of the line, *Hos[t]iliae meae* might perhaps be read.

l. 12: *..a ..e* (Marichal).

Here *eff`e`rre* or *eff`e`rri* is perhaps to be read: cf. *ChLA* X 412, I 11.

P.Carlsberg inv. 671 fr. b and e recto (2nd century AD)

First edition: Halla-aho (2020)

The fragments have been edited by H. Halla-aho (2020) together with P.Carlsberg inv. 671 *a–e recto* + P.Berol. inv. 14470 *b recto* + PSI inv. I 149 *a–f recto*. These three groups of fragments preserve both Latin and Greek script. On the *verso* is an unpublished Egyptian text, partly in Hieratic and partly Demotic, coming from the Tebtynis temple library and written at 180° to the document on the *recto*.¹² Halla-aho has convincingly recognized in P.Carlsberg inv. 671 *a+c recto* + P.Berol. inv. 14470 *b recto* the fragment of a Roman will, hypothesizing that the other fragments which preserve Latin script from the same hand belong to the same document. The following reading notes support this hypothesis.

P.Carlsberg inv. 671 *b recto*, l. 1: *Ἰηο . . . [* (ed.). The line can be restored as follows: *an]ηο Ι[Ι]Ι Ιμ[peratoris* (or: *an]ηο ΙΙ Ιμ[peratoris*).

I agree with the reading *T]it̄i Ael̄i H̄ad[r]iani* proposed by the editor for l. 2 in the apparatus. This, together with *] m̄ense Thōh [die - - -* (i.e. 29 August – 27 September, l. 3), suggests a dating formula of Graeco-Egyptian type. The proposed reconstruction points to the years AD 118 (or 117: Hadrianus) or – more plausibly in consideration of the imperial titulature – AD 139 (or 138: Antoninus Pius).

The editor is thinking of the dating formula of the protocol of opening, since the date of the will itself is to be found at the bottom of the main fragment (P.Carlsberg inv. 671 *a* + P.Berol. inv. 14470 *b*, l. 15: *[fac-tum Alex(andrae)] q̄d · Aeg(yptum) · IIII Id(us) · Iul(ias) [-]*). This date is incomplete, as the names of the consuls are lacking, and one would expect the consular dating to be followed by the regnal year and day of the month according to the local calendar (see e.g. *ChLA* X 412 and *P.Diog.* 10). However, the (although dubious) content and the layout of the fragment make it reasonable to hypothesize that it belongs to the opening protocol, as supposed by the editor. Moreover, the papyrus seems to preserve a further imperial titulature, namely in P.Carlsberg inv. 671 *e recto*, likely the date of the will itself.

P.Carlsberg inv. 671 *e recto*:

l. 1: *]ae . [* (ed.) and l. 3: *] . . eη[* (ed.). The lines can be read as follows: *Tit̄i Ael̄i [Hadriani*, presumably *Tit̄i Ael̄i [Hadriani Antonini Augusti Pii* (l. 1); *Antonif*¹³ (l. 3).

The reading *Aelif* in l. 1 points to an imperial titulature, which could be the final part of the dating formula extant in P.Carlsberg inv. 671 *a* + P.Berol. inv. 14470 *b recto*, l. 15 (see above).

The word *Antonif* in l. 3 is too distant to belong to the titulature: one could hypothesize that it is the nomen of the testator, whose signature is copied by the same scribe who wrote the will (cf. *ChLA* X 412, II 11 and *P.Diog.* 10, 17–18). The following line seems to preserve Greek letters, which could belong to a name (Halla-aho 2020: 227). The comparison with *BGU* XIII 2244 (AD 186) – in which the witnesses are listed not only in the protocol of opening (ll. 14–18), but also after the testator's subscription, at the bottom of the will (ll. 7–11) – leads to the hypothesis that in l. 4 the name of a witness is extant.

Thus, fr. *e* would preserve the final part of the will itself, whereas fr. *b* the protocol of opening.¹⁴ Considering the unpublished Egyptian text on the back, one can observe that fr. *e* must be placed next to the

¹² See Ryholt (2005) and (2018).

¹³ I owe this reading to R. Ast.

¹⁴ One could speculate that the unusual phrasing *] . ο ἐπὶ τῶν ἀφ[τῶν* in fr. b l. 8 is perhaps to be supplied ἐπὶ τῶν ἀφ[τῶν σφραγιστῶν: cf. *BGU* III 895, 7; *P.Oxy.* LIV 3758, 134–6, 181–4; *PSI* XIII 1325, 2 and 25.

bottom of fr. *a* (Egyptian side), as both fragments preserve the lower margin.¹⁵ The bottom of the Egyptian text, written upside down on the *verso*, corresponds to the top of the Latin *recto*. As fr. *e recto* cannot belong to the left of fr. *a recto* (where there are the identification of the testator, l. 1, and the *heredis institutio*, ll. 2–3), one might place it to the right, with fr. *b* below it, ascribing both fragments to a second column preserving the final part of the will and the record of opening (cf. e.g. *ChLA* X 412).

BGU VII 1696 (2nd century AD)

First edition: Viereck and Zucker in *BGU* VII 1696 (1926); corrections in Migliardi Zingale (1990) = *BL* 9.28; TM 69751.¹⁶

Two fragmentary tablets survive of this document; they are coated with wax and written on both faces, but each legible on one face only. The text has been identified as a Roman will by its first editors, who recognized traces of an earlier text under it. Improvements have been provided by Migliardi Zingale (1990: 441), who, on the basis of the entirely preserved *FIRA* III 47, hypothesized that tablet A would have been the second tablet of an original polyptych.¹⁷

One should highlight the different position of the hole to the right, which represents the remains of the three bore-holes prescribed by the *senatus consultum Neronianum*:¹⁸ tab. A has it on the top, tab. B on the bottom. Therefore, the legible side of tab. A is the *pagina posterior*, whereas tab. B seems to preserve writing on the *pagina anterior*.

Some progress in the reconstruction of the document can be made in light of textual considerations.

The reading *mei* (instead of *ce]teri*) in l. 2 leads to the supplement *liberi] or filii] mei*, which should be ascribed to the *heredis institutio* rather than to the *exhereditatio* of the *ceteri omnes*; therefore, it seems more plausible to supply *he]redes* than *exhe]redes* in l. 3. Another argument for restoring the disinheritance clause in ll. 3–4 rather than in ll. 2–3 is the occurrence of the phrase *cernito hel]reditatem meam* (ll. 4–5), which generally follows immediately *exheredes sunt*. Note that this reconstruction corroborates the hypothesis proposed by Migliardi Zingale (1990: 440) that the Gemellus mentioned in l. 1 is a first-degree heir: it can be supposed that he was one of the testator's children, the name(s) of the other(s) being lost in lacuna.¹⁹ For *cernito* instead of the commoner *cernitoque* cf. *AE* 2004 (2007) no. 852 = 2016 (2019) no. 41.

Thus, we would have (part of) the clause appointing the heir (ll. 1–3), the disinheritance clause (ll. 3–4), and the *cretio* (ll. 4–6) followed by the *substitutio vulgaris*. For the supplements to ll. 4–10, see above, comm. to *ChLA* X 427 ll. 5–8 and 9–10; to the parallels mentioned there can be added *P.Diog.* 9, 7–9 with *BL* 10.63 (AD 186–210); *P.Oxy.* VI 907, 5–6 (AD 276); *P.Strasb.* IV 277, 11–12 (2nd half III AD); *P.NYU* II 39, 4 (AD 335).

¹⁵ I am very grateful to K. Ryholt for promptly providing me with scans of the *verso* and to S. Töpfer for discussing with me the relative position of the fragments according to the Egyptian text.

¹⁶ Photographs of the legible sides printed in Migliardi Zingale (1990: tav. XLII) and Migliardi Zingale (1997³: tav. IV).

¹⁷ Arangio-Ruiz (1952), Amelotti (1966: 50–51) and Migliardi Zingale (1990: 441) supposed that tab. A contained only the final part of the *heredis institutio*, whereas the first part would have been contained in the first (lost) tablet (i.e. tab. I pag. 2) together with the identification of the testator.

¹⁸ P.S. 5.25.6; Suet. *Nero* 17. See Meyer (2004: 165–6); Camodeca (2007: 85 n. 19); further bibliography in Schiavo (2007: 9–10 n. 28). Cf. *FIRA* III 47 (images printed in Guéraud and Jouguet 1940).

¹⁹ The name *Numissia Gemella*, occurring in l. 7, has not been supplied in l. 2 because she seems to be a second-degree heir, as Migliardi Zingale (1990: 440) proposed.

Here is a reconstruction of tab. A ll. 1–[10], with supplements provided *exempli gratia*:²⁰

[- - C. (?) Numiss]us Gēmellus
 [- -] mei omnes
 [omnium bonorum meorum he]redes sunt. Ce-
 [teri omnes exheredes s]unto. Cernito he-
 5 [reditatem meam quis]que suo nomine
 [in diebus C proximis (?). Ni it]a creverit ex-
 [heres esto. Secundo gradu (?)] Numissia Gemella
 [- - mihi heres est]o. Ceteri omnes
 [exheredes sunt. Cerni]to hereditatem me-
 10 [am in diebus LX proximis (?)] etc.

1 C. Numiss]us Gemellus Migliardi Zingale : *Jus Gemellus (heres esto* suppl. in commentario) Viereck et Zucker ll 2 fortasse *liberi*] vel *fili*] (cf. *ChLA* X 427, 4): *J . epi omnes* Viereck et Zucker : *ce]teri omnes* Migliardi Zingale ll 3 *he]redes sunt* Viereck et Zucker : *[alii (?) ex]he]redes sunt* Migliardi Zingale ll 4–6 non suppl. edd. ll 6] . *creverit* edd. ll 7 fortasse tantum *[heres esto. Secundo gradu]* spatii ratione vel *[heres esto. Tunc secundo gradu]* Numissia Gemella cum Migliardi Zingale : *ma]numissi a Gemella* Viereck et Zucker ll 8–10 non suppl. Viereck et Zucker ll 9–10 *cerni]to hereditatem melam* Migliardi Zingale : *]to hereditatem ma-* Viereck et Zucker

Tab. B l. 3, *Jumunum et dimidium* (ed.), can be restored as *iuger]um unum et dimidium* (cf. P.Phil. inv. CJS 06.10, 3).

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²⁰ The text of the tablet would need thorough reconsideration, but, as I was unable to inspect the original because of the COVID-19 pandemic, my reading proposals are based on the photographs printed in Migliardi Zingale (1990) and (1997³): see n. 18. I am very thankful to M. Gerhardt for checking the original and for helpful discussion on difficult points, not all included in the text above. In particular, I owe to him the reading of the sequence *as·dm· s* (l. 11), where I hypothesize the presence of the abbreviated formula *s(ine)· d(olo) m(alo)*. At l. 13, the tablet is very damaged and I am not able to propose improvements on the basis of the printed photograph. However, the sequence *mīhi heres non erit* in l. 12 suggests the phrase *si ... mīhi heres non erit*; one can think of the beginning of the legacy section (*ei do lego* to be supplied in l. 13?), which should have continued in tab. B: cf. Nowak (2015a: 354). In the lacunae (ll. 8, 13), after the mention of Numissia Gemella, one would expect a qualification of the woman, e.g. her degree of kinship to the testator.

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