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The Ptolemaic Ordinance of 118 BC on the Jurisdiction of Royal and Egyptian Courts

INTRODUCTION

Since its publication by Bernard P. Grenfell and Arthur S. Hunt in 1902, the *prostagma* of Ptolemy VIII Euergetes II and his two Cleopatras (II&III) on the jurisdiction of the different Ptolemaic law courts still operating[1] has not ceased to provoke the curiosity of historians, jurists and papyrologists, intrigued by the pluriformity of legal and judicial systems or harboring a particular interest in issues like ethnicity or multiculturalism.

Belonging to a cluster of 46 related decrees (*prostagmata*) promulgated on the 28th of April 118 BC (better known as 'the Amnesty Decree of 118'),[2] our ordinance stipulates which court was to be competent for which cases, provided the latter were issuing from Greek or Egyptian contracts. The gist of it seems to be that henceforth the language of the contract became decisive for the kind of court the litigants had to call on, as well as for the specific national legislation the courts were expected to apply. Along these lines, suits based on Greek contracts were to be brought before the royal court of the chrematists, whereas Egyptian documents would become the exclusive domain of the *laokritai*, administering justice according to the traditional Egyptian 'laws of the country'. But in fact, things were not as simple as that.

On first thought it seems strange that the *prostagma* focuses only on conflicts resulting from contracts. Yet, as has been pointed out by Katelijn Vandorpe,[3] in

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[1] *P.Tebt.* I 5, ll. 207–220: B.P. Grenfell, A.S. Hunt & J.G. Smyly (eds.), *The Tebtunis Papyri*, London 1902, pp. 17–58.

[2] See P. Nadig, *Zwischen König und Karikatur. Das Bild Ptolemaios' VIII. im Spannungsfeld der Überlieferung*, Münchener Beiträge zur Papyrusforschung und antiken Rechtsgeschichte 97, München 2007, pp. 101–109.

[3] K. Vandorpe, 'Een geluksindex voor de oudheid? Grieks–Romeins Egypte doorgelicht', *Tetradio* 23 (2014), pp. 63–79, esp. 70–72; already to the same extent but less outspokenly: 'A Happiness Index for Antiquity? Hellenistic Egypt as a Case–study', [in:] S. Bussi (ed.), *Egitto dai Faraoni agli Arabi. Atti del convegno 'Egitto: amministrazione, economia, società, cultura dai*

their daily lives Greeks as well as Egyptians were primarily concerned about their property and assets. To a certain extent that might explain the central role played by contracts in their mutual dealings and in the tasks to be performed by their respective law courts. There is also the fact, emphasized by Erwin S e i d l, that in Ptolemaic lawsuits document–based evidence ('Urkundenbeweis') was considered the *regina probationum*.[4]

For all their diversity, the 46 decrees invariably show that in the late second century BC, the Ptolemies were desperately gasping for breath. Decades of external wars and dynastic conflicts had led to a situation of chronic anarchy. The once flourishing maritime Empire had collapsed long since, barely maintaining Cyprus and the Cyrenaeca as precious relics of a glorious past, while the Egyptian homeland had become prey to disorder and lawlessness. The general confusion, especially from about 180 on, has recently been described once more by Christelle F i s c h e r – B o v e t in her *Army and Society in Ptolemaic Egypt*.[5] The measures taken by Ptolemy VIII only two years before his death must have seemed the last chance for a society at the brink of exhaustion. Apparently the country had also gone through a period of judicial disarray. By issuing the *prostagma* on the law courts the Ptolemaic government manifestly wanted to reestablish a certain stability in the administration of justice, in order to protect the population from further turmoil and legal disorder, and to preserve the state apparatus from impending disintegration.

The present discussion, dedicated to the bright memory of Professor Iza B i e ż u ń s k a – M a ł o w i s t (1917–1995), once a familiar and welcome guest in Leuven, will focus on the following aspects: 1) the decree's *original wording* as a *conditio sine qua non* for a correct understanding and interpretation; 2) a *close analysis* of the 'reestablished' text, its structure, somewhat puzzling phraseology, and specific terminology; 3) a few *concluding remarks*, first about Egypt's mixed society and the designations 'Greek' and 'Egyptian'; then on the fate of the law courts involved; finally concerning the supposed and (presumably) real aims of Ptolemy VIII.

Faraoni agli Arabi. Égypte: administration, économie, société, culture des pharaons aux Arabes', Milano, Università degli Studi, 7–9 gennaio 2013, Pisa–Roma 2013, pp. 91–103, esp. 96 and 99.

[4] E. S e i d l, *Ptolemäische Rechtsgeschichte*, Ägyptologische Forschungen 22, Glückstadt–Hamburg–New York 1962, p. 92. See also J. M é l è z e M o d r z e j e w s k i, *Loi et coutume dans l'Égypte grecque et romaine*, *The Journal of Juristic Papyrology*. Supplement 21, Warszawa 2014, p. 179: 'rares sont en Égypte les procès civils que n'accompagne aucun document écrit'.

[5] Ch. F i s c h e r – B o v e t, *Army and Society in Ptolemaic Egypt*, Armies of the Ancient World, Cambridge–New York 2014, pp. 98–105. Bibliographical references are given by M.M. A u s t i n, *The Hellenistic World From Alexander to the Roman Conquest. A selection of ancient sources in translation*, Cambridge 2006[2], p. 502. See also W. H u ß, *Ägypten in hellenistischer Zeit 332–30 v.Chr.*, München 2001, pp. 537–670, *passim*: 'VII. Der Niedergang des Reichs (180–80)'.

1. ESTABLISHING THE ORIGINAL WORDING

Part of a long copy written on the back of an earlier piece,[6] our fragment comes from a crocodile mummy cartonnage discovered in the necropolis of Umm el–Baragat, ancient Tebtynis. Made in the office of Menches, the *kômogrammateus* (village scribe) of Kerkeosiris, the text was destined for local use.[7] According to some scholars, the wording of the decrees appears to have been abridged, resulting in some more or less serious textual gaps.[8] Whereas certain parts are slightly, some others more seriously mutilated, column ix, including lines 207–220, was preserved in a comparatively good state. Marred, nevertheless, by a number of abbreviations and omissions of letters, erasures and interlinear additions, the writing makes a somewhat careless impression, at times even hampering a proper or, at least, easy comprehension.[9] It seems beyond doubt, at any rate, that not the original redactor, but rather the copyist who happened to work in the said village is to be blamed for the mediocre quality of the text. Especially in our fragment he appears to have made some typical errors, in particular one or two haplographies, due to the repetition of identical or similar words or phrases.

After a careful inspection of the papyrus, whose condition had obviously deteriorated in the meantime, the text as given in the *editio princeps*, *P.Tebt.* I 5, ll. 207–220, was basically endorsed with only a few corrections by Marie–Thérèse Lenger (*C.Ord.Ptol*. 53). Published in 1964, Lenger's book was reprinted with *addenda* in 1980.[10] Due to its historical import, our text, apart from this critical reedition in the full sense of the word, has regularly been reprinted, translated and (more or less exhaustively) discussed.[11]

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[6] 'In reality nothing more than a mere copy written on the back of a discarded papyrus': P.W. Pestman, 'The Competence of Greek and Egyptian Tribunals according to the Decree of 118 B.C.', *Bulletin of the American Society of Papyrologists* 22 (1985), pp. 265–269, esp. 266.

[7] See Grenfell & Hunt, *P.Tebt.* I (cit. n. 1), 'Preface', pp. v–x, and introduction to no. 5, pp. 17–20; M.–Th. Lenger, *Corpus des Ordonnances des Ptolémées. Réimpression de l'édition princeps (1964) corrigée et mise à jour*, Mém. Académie Royale de Belgique, Cl. des Lettres 64. 2, Bruxelles 1980, introduction to no. 53, pp. 128–130.

[8] See esp. Grenfell & Hunt, *P.Tebt.* I 5 (cit. n. 1), p. 18. Cf. Austin, *The Hellenistic World* (cit. n. 5), p. 502.

[9] On the clumsy character of the document, see esp. Pestman, 'Competence' (cit. n. 6), p. 266.

[10] Lenger, *C.Ord.Ptol*. (cit. n. 7), pp. 128–158, no. 53.

[11] **Reprints and/or translations (mostly with short comments or within the context of a more comprehensive study)**: *Chrest.Mitt.* 1: L. Mitteis, *Grundzüge und Chrestomathie der Papyruskunde* II 2, Leipzig 1912; *Jur.Pap.* 75: P.M. Meyer, *Juristische Papyri*, Berlin 1920; *Sel.Pap*. 210: A.S. Hunt & C.C. Edgar, *Select Papyri* II, Loeb Classical Library, London–Cambridge (MA) 1934; Seidl, *Ptolemäische Rechtsgeschichte* (cit. n. 4), p. 13; M. David & B.A. van Groningen, *Papyrological Primer*, Leiden 1965[4], no. 57; J. [Mélèze] Modrzejewski, 'Chrématistes et laocrites', [in:] J. Bingen, G. Cambier & G. Nachtergael (eds.), *Le monde grec. Pensée,*

We start by rendering what might be called the 'first standard version', i.e. the version of the *editio princeps* taking into account the corrections proposed by Lenger as well as some other (early) comments, representing, as it were, the first move in the study of the document. The underscored words printed in bold on l. 209 faithfully reproduce the manuscript but are problematical, in so far as they seem to constitute a dittography, a superfluous literal repetition of part of ll. 207–208.

> Προστετάχασι δὲ καὶ περὶ τῶν κρινομένων Α[ἰ]γυπτίων | πρὸς Ἕλληνας καὶ περὶ τῶν Ἑλλήνων τῶν [π]ρὸς τοὺς | Αἰγυπτίους ἢ **Αἰγυ(πτίων) πρὸς Ἕλληνας**, γενῶν πάντων, || πλὴν τῶν γεω(ργούντων) βα(σιλικὴν) γῆν καὶ τῶν ὑποτελῶν καὶ τῶν | ἄλλων τῶν ἐπι᾽πε΄πλεγμένων ταῖς προσόδοις, τοὺς | μὲν καθ᾽ Ἑλληνικὰ σύμβολα συνηλλαχότας | Ἕλλησιν Αἰγυπτίους ὑπέχειν καὶ λαμβάνειν | τὸ δίκαιον ἐπὶ τῶν χρηματιστῶν. ὅσοι δὲ Ἕλληνες || ὄντες συνγράφονται κατ᾽ Αἰγύ(πτια) συναλλάγματα | ὑπέχειν τὸ δίκαιον ἐπὶ τῶν λαοκριτῶν κατὰ τοὺς | τῆς χώρας

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littérature, histoire, documents. Hommages à Claire Préaux, Bruxelles 1975, pp. 699–708, esp. 700–701 and 707 (= J.M.M., 'Un partage de compétences' [Chapitre viii], [in:] J.M.M., *Droit et justice dans le monde grec et hellénistique*, The Journal of Juristic Papyrology. Supplement 10, Warszawa 2011, pp. 179–192, esp. 181–182 and 190); S.M. Burstein, *The Hellenistic Age from the battle of Ipsos to the death of Kleopatra VII*, Cambridge 1985, no. 107, esp. pp. 140–141; P.W. Pestman, *The New Papyrological Primer, being the Fifth Edition of David and Van Groningen's Papyrological Primer*, Leiden 1990, pp. 85–86 no. 8; R.S. Bagnall & P. Derow, *The Hellenistic Period. Historical Sources in Translation*, Malden (MA)–Oxford–Carlton (Victoria) 2004[2], no. 54, esp. pp. 99–100; Austin, *The Hellenistic World* (cit. n. 5), no. 290, esp. pp. 506 and 508; J. Mélèze Modrzejewski, *Le droit grec après Alexandre*, L'esprit du droit, Paris 2012, p. 111 no. 6 (with additional bibliography p. 179); Mélèze Modrzejewski, *Loi et coutume* (cit. n. 4), pp. 178–179 n. 22; J. Mélèze Modrzejewski, '*Chrêmatistai* and *laokritai*', [in:] J.G. Keenan, J.G. Manning & U. Yiftach–Firanko (eds.), *Law and Legal Practice in Egypt from Alexander to the Arab Conquest. A Selection of Papyrological Sources in Translation, with Introductions and Commentary*, Cambridge–New York 2014, pp. 476–477 no. 10.1.4.

Discussions: L. Wenger, 'Rechtsurkunden aus Tebtynis', *Archiv für Papyrusforschung* 2 (1903), pp. 483–514, esp. 489–494; O. Gradenwitz, 'Das Gericht der Chrematisten', *Archiv für Papyrusforschung* 3 (1903), pp. 23–43, esp. 40–42; G. Semeka, *Ptolemäisches Prozessrecht. Studien zur ptolemäischen Gerichtsverfassung und zum Gerichtsverfahren* I, München 1913, pp. 138–148; Mitteis, *Grundzüge* II 1, pp. 6–7; S. Waszyński, 'Die Laokriten', *Archiv für Papyrusforschung* 5 (1913), pp. 1–22, esp. 18–21; R. Taubenschlag, *The Law of Greco–Roman Egypt in the Light of the Papyri 332 B.C.–640 A.D.*, Warszawa 1955[2], pp. 19–20, 479–483; H.J. Wolff, *Das Justizwesen der Ptolemäer*, Münchener Beiträge zur Papyrusforschung und antiken Rechtsgeschichte 44, München 1970[2], pp. 87–88, 180–181, 204; J. [Mélèze] Modrzejewski, 'Chrématistes et laocrites', pp. 699–708 (article reprinted with slight modifications, a few supplementary references, and an additional endnote [p. 192 n. 33], as Chapter viii ['Un partage de compétences'] of *Droit et justice*, pp. 179–192; cf. Mélèze Modrzejewski, '*Chrêmatistai* and *laokritai*', pp. 471–472); Pestman, 'Competence' (cit. n. 6); H.–A. Rupprecht, *Recht und Rechtsleben im ptolemäischen und römischen Ägypten. An der Schnittstelle griechischen und ägyptischen Rechts 332 a.C.–212 p.C.*, Akademie der Wissenschaften und der Literatur, Mainz. Abhandlungen der Geistes– und Sozialwissenschaftlichen Klasse (AM–GS), Jg. 2011 Nr. 8, Stuttgart 2011, *passim*; [Mélèze] Modrzejewski, *Loi et coutume* (cit. n. 4), pp. 178–181.

νόμους. τὰς δὲ τῶν Αἰγυ(πτίων) πρὸς τοὺς | αὐτοὺς <Αἰ>γυ(πτίους) κρίσεις μὴ ἐπισπᾶσθαι τοὺς χρημα(τιστὰς), | ἀλλ᾽ ἐᾶν ⟦κριν⟧ διεξάγεσθαι ἐπὶ τῶν λαοκριτῶν κατὰ τοὺς || τῆς χώρας νόμους.

L. 211: the *editio princeps* simply has ἐπιπεπλεγμένων, just like David & Van Groningen (*Papyrological Primer* [cit. n. 11] 57), Mitteis (*Chrest. Mitt*. 1), Meyer (*Jur.Pap*. 75), and Pestman (*New Papyrological Primer* [cit. n. 11] 8), but Plate III in *P.Tebt*. I undeniably shows that πε was inserted above the line (correct in Pestman, 'Competence' [cit. n. 6], p. 266); l. 215: συνγραφόμενοι in the *editio princeps* (also in Mitteis and Meyer) is a manifest slip (or unjustified correction?) by the first editors: see Lenger, *C.Ord.Ptol*. (cit. n. 7), p. 150, l. 215, comm. (cf. [Mélèze] Modrzejewski, 'Chrématistes et laocrites' [cit. n. 11], p. 702 n. 2); l. 219: the reading ⟦κρι⟧ given by Lenger is unwarranted, as is shown by the plate in *P.Tebt*. III; David & Van Groningen as well as Pestman (*New Papyrological Primer* 8; cf. 'Competence', p. 265 n. 1) rightly print ⟦κρίν⟧.

According to the editors of *P.Tebt.* I and other papyrologists, among them Wenger, Mitteis, Meyer, Lenger, Wolff, David and Van Groningen, one should interpret Ἕλληνας as an error for Αἰγυπτίους, an unintentional slip made by an inattentive copyist.[12] So, the 'archetype' would have read: ἢ Αἰγυ(πτίων) πρὸς **Αἰγυπτίους**.

In the course of time two supplementary emendations were suggested by scholars who tried to make the text more symmetric and logical, more explicit too. It is not clear, however, whether these complements — assuming their proponents were right — should be regarded as an actual part of the lost original or only be 'mentally' implied. Their plausibility largely depends on one's interpretation of the *prostagma's* stipulations as well as on the degree of formal perfection and completeness one wishes to attribute to the original text.

The *first emendation* concerns ll. 214–215, where, according to some, one should read or at least understand: ὅσοι δὲ Ἕλληνες || ὄντες συνγράφονται **<τοῖς Αἰγυπτίοις>** κατ᾽ Αἰγύ(πτια) συναλλάγματα. In fact, Hunt and Edgar, to whom this explicitation goes back, only presented it as a suggestion in their translation in the *Select Papyri* of the Loeb series, not in the Greek text: 'but all Greeks who make agreements (with Egyptians) in Egyptian contracts'.[13] It was only for the sake of clarity that Modrzejewski, in his study we will deal with further on, wanted to show what the Greek text would have looked like if complemented.[14]

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[12] Grenfell & Hunt, *P.Tebt.* I (cit. n. 1), p. 55; Wenger, 'Rechtsurkunden' (cit. n. 11), p. 490 with n. 2; Mitteis, *Chrest.Mitt.* (cit. n. 11), no. 1, p. 1; Meyer, *Jur.Pap*. (cit. n. 11), no. 75, p. 264; Lenger, *C.Ord.Ptol*. (cit. n. 7), p. 150; Wolff, *Justizwesen* (cit. n. 11), p. 87 n. 85; David & Van Groningen, *Papyrological Primer* (cit. n. 11), p. 117.

[13] Hunt & Edgar, *Select Papyri* II (cit. n. 11), p. 73.

[14] [Mélèze] Modrzejewski, 'Chrématistes et laocrites' (cit. n. 11), p. 702.

The *second emendation* concerns l. 216. Inspired by the comments of Wenger,[15] many papyrologists preferred to read or at least to tacitly imply: ὑπέχειν **<καὶ λαμβάνειν>** τὸ δίκαιον ἐπὶ τῶν λαοκριτῶν etc.[16] This addition too was rejected by Modrzejewski, as it had been rejected before by Wolff (cf. *infra*).[17]

Unnecessary to stress that neither of these 'improvements' is evident.[18] We will discuss them at length in the next section, when trying to give a global analysis of the *prostagma*.

Joseph Mélèze–Modrzejewski's already mentioned contribution, devoted entirely to the *prostagma*, appeared in 1975. It initiated, so to speak, a second phase in the modern history of the document.[19] According to the author not only the questionable additions in ll. 215 and 216 should be rejected, but also the widely accepted emendation in l. 209. In other words, the literal wording of the decree as transmitted by the papyrus should be deemed correct. Αἰγυ(πτίων) πρὸς Ἕλληνας was not the result of a dittography, because the καὶ in l. 208 has explanatory value, with the meaning 'à savoir', 'und zwar', 'namely', 'that is to say', leading to the following translation: 'Ils ont décrété également au sujet des procès qui opposent les Égyptiens aux Grecs, *à savoir* [my italics] les procès des Grecs contre les Égyptiens ou des Égyptiens contre les Grecs ...'[20] A strong argument in favour of this interpretation is the careful distinction made in the papyrus between the conjunctions καὶ (having epexegetical value) in l. 208 and ἢ ('ou', 'or') in l. 209. So we have, in the section called by Modrzejewski the 'énoncé' ['outline'] (ll. 207–211), the general case first ('Egyptians against Greeks'), covering ('à savoir') two concrete possibilities: on the one hand 'Greeks against Egyptians', on the other ('or') 'Egyptians against Greeks'.[21] In Modrzejewski's interpretation, the 'énoncé' does not leave enough space for 'homogeneous' cases (Greeks versus Greeks or Egyptians versus Egyptians). In the 'dispositif', or 'corps du décret' ['corpus', 'main part'] (ll. 211–220), on the other hand, mention is also made, if not of

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[15] Wenger, 'Rechtsurkunden' (cit. n. 11), p. 494.

[16] See Mitteis, *Grundzüge* II 1 (cit. n. 11), p. 7; Waszyński, 'Die Laokriten' (cit. n. 11), pp. 20–21; Meyer, *Jur.Pap*. (cit. n. 11), no. 75, pp. 263 and 264; cf. [Mélèze] Modrzejewski, 'Chrématistes et laocrites' (cit. n. 11), p. 703 with n. 2.

[17] Wolff, *Justizwesen* (cit. n. 11), p. 88 n. 91, p. 204; [Mélèze] Modrzejewski, 'Chrématistes et laocrites' (cit. n. 11), pp. 706–707.

[18] No more than Modrzejewskı did Rupprecht take them up in the text as presented by him: *Recht und Rechtsleben* (cit. n. 11), p. 43 n. 141 (but see n. 143).

[19] [Mélèze] Modrzejewski, 'Chrématistes et laocrites' (= 'Un partage de compétences') (cit. n. 11).

[20] [Mélèze] Modrzejewski, 'Chrématistes et laocrites' (cit. n. 11), p. 704, giving a circumstantial explanation, containing a minor but confusing slip on l. 9: 'à la ligne 210' instead of '208' (rectified in 'Un partage de compétences', p. 186).

[21] A suggestion to this extent was already put forward but subsequently rejected by Grenfell & Hunt, *P.Tebt.* I (cit. n. 1), p. 55, l. 209, comm.

Greeks against fellow Greeks,[22] at least of 'Egyptians against Egyptians'. This would mean that 'les liens symétriques que l''énoncé' (...) était censé entretenir avec le 'dispositif' (...) se rompent', in Modrzejewski's eyes not an unbridgeable problem.[23] For the sake of clearness, I will continue to use Modrzejewski's French terms when speaking about the two constituent parts of the *prostagma*.

The next milestone in the *prostagma*'s present–day history was a short but influential article by Pestman, published in the 1985 issue of the *Bulletin of the American Society of Papyrologists*,[24] underlying, five years later, his briefly annotated reedition of the document in the *New Papyrological Primer*.[25] Examining l. 209 in his turn, Pestman saw Αἰγυ(πτίων) πρὸς Ἕλληνας again as a mistake, this time due to an easy to understand haplography, caused by the preposition πρὸς, inducing a *saut du même au même*. It resulted in the following reading (ll. 207–209): Προστετάχασι δὲ καὶ περὶ τῶν κρινομένων Α[ἰ]γυπτίων | πρὸς Ἕλληνας καὶ περὶ τῶν Ἑλλήνων τῶν [π]ρὸς τοὺς | Αἰγυπτίους ἢ Αἰγυ(πτίων) πρὸς **<u><Αἰγυπτίους καὶ Ἑλλήνων πρὸς></u>** Ἕλληνας, γενῶν πάντων.

As matters stand now, the Pestman solution for l. 209 appears the most satisfying and convincing: 1. the haplography, which can be clearly visualized, is self–explanatory and much easier to understand than a confusion between 'Greeks' and 'Egyptians' as erstwhile thought; 2. the alternation καὶ/ἢ becomes quite natural: on the one hand the mixed suits (internally linked by 'and'), on the other the 'homogeneous' cases (again linked by 'and'), both groups being joined by the conjunction 'or'. Moreover, whereas the original interpretation of the text does not seem to have a good explanation for the difference καὶ/ἢ, we are not obliged to give, with Modrzejewski, a special meaning (no matter how reasonable by itself) to the first καὶ; 3. the 'énoncé', listing the possible combinations, is complete here. The three advantages together are only provided by Pestman. That is why I take his emendated version as the basis for further analysis, without neglecting, of course, the arguments of his predecessors.

Equally important in the present context is Pestman's interpretation of διεξάγεσθαι in l. 219. The contrast to the preceding, interrupted and deleted verb ⟦κρίν⟧ (εσθαι) points to a different meaning. In the words of Pestman: 'Plainly the verb διεξάγειν «to bring to an end» was used on purpose, in order to stress the fact that the lawsuits in question were those which had already begun but still had to be finished at the moment when the decree was promulgated'. Copying the text in a more or less mechanical and distracted way, the scribe must have realized all of a sudden that the example before him did not mention the term he was expecting.

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[22] However, [M é l è z e] M o d r z e j e w s k i ('Chrématistes et laocrites' [cit. n. 11], p. 706) surmises that 'faux Grecs, Égyptiens d'origine' — *Persai têsepigonês* — could be involved.

[23] [M é l è z e] M o d r z e j e w s k i, 'Chrématistes et laocrites' (cit. n. 11), pp. 704–705.

[24] P e s t m a n, 'Competence' (cit. n. 6).

[25] P e s t m a n, *New Papyrological Primer* (cit. n. 11), no. 8.

So the unusual verb brings insight into the peculiar nature of the lawsuits in ll. 217–220: they were subject to a *temporary* provision. As will be shown further on, this insight changes our global understanding of the real bearing of the document in a fundamental way.[26]

That brings us to the 'final version', as given by Pestman[27] and accepted by Rupprecht,[28] the version on which our further analysis will be based. The translation, sticking as close as possible to the Greek text, is mainly inspired by the renditions of Grenfell & Hunt, Austin, and Pestman himself. Some specific terms will be explained in the next section:

A. 'Énoncé'

207 Προστετάχασι δὲ καὶ περὶ τῶν κρινομένων Α[ι]γυπτίων
208 πρὸς Ἕλληνας καὶ περὶ τῶν Ἑλλήνων τῶν [π]ρὸς τοὺς
209 Αἰγυπτίους ἢ Αἰγυ(πτίων) πρὸς **<u><Αἰγυπτίους καὶ Ἑλλήνων πρὸς></u>**
Ἕλληνας, γενῶν πάντων, –
210 πλὴν τῶν γεω(ργούντων) βα(σιλικὴν) γῆν καὶ τῶν ὑποτελῶν καὶ τῶν
211 ἄλλων τῶν ἐπι`πε´πλεγμένων ταῖς προσόδοις —

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[26] P e s t m a n, 'Competence' (cit. n. 6), pp. 268–269. The author seems to have already fostered this idea twenty years earlier, referring in a footnote concerning ll. 217–220 of our document to the Greek contracts 'qui ont été passés entre Égyptiens et qui sont jugés — *à ce moment–là* [my italics] — par une cour égyptienne selon le droit égyptien': P.W. P e s t m a n, 'Les archives privées de Pathyris à l'époque ptolémaïque. La famille de Pétéharsemtheus, fils de Panebkhounis', [in:] E. B o s w i n k e l, P.W. P e s t m a n & P.J. S i j p e s t e i j n (eds.), *Studia Papyrologica varia*, Papyrologica Lugduno–Batava 14, Lugdunum Batavorum 1965, pp. 47–105, esp. 102 n. 321. R u p p r e c h t (*Recht und Rechtsleben* [cit. n. 11], p. 43 n. 143), though knowing Pestman's basic article of 1985, does not pronounce himself on the latter's interpretation, but judging by his brief paraphrasing ('Die Prozesse unter Ägyptern sollen nicht von den Chrematisten an sich gezogen werden'), one gets the impression that he is rather following the traditional view. In an additional note at the end of the reedition (2011) of his article of 1975, M é l è z e M o d r z e j e w s k i ('Un partage de compétences' [cit. n. 11], p. 192 n. 33) refers to Pestman's publications of 1985 and 1990 (cit. nn. 6 and 11). Implicitly, if not reluctantly, he has to admit that his own interpretation of διεξάγεσθαι continues to differ from Pestman's. In his more recent *Le droit grec* (cit. n. 11), p. 111, on the other hand, he tries to reconcile Pestman's translation of the verb ('conduire *jusqu'au bout*') with the traditional view (being also his own) on the rule's actual purport (ll. 217–220): 'on a plutôt voulu indiquer ainsi, pour l'immédiat *comme pour l'avenir* [my italics], que tout procès commencé devant les laocrites par des plaideurs égyptiens devait se terminer devant cette juridiction, les chrématistes étant invités à ne pas s'en emparer, même si le document qui se trouvait à l'origine du litige était rédigé en grec.' By doing so, however, he misses the real point, made clear by Pestman and constituted by the striking opposition between the two verbs at stake, thus making irrelevant the substitution of κρίνεσθαι by an in the given context less usual term. In his *Loi et coutume* (cit. n. 4), p. 179 n. 22, for that matter, he sticks or returns to his old translation: 'qu'on laisse (…) conduire (les procès) devant les laocrites …' (i.e. without adding: 'jusqu'au bout').

[27] Apart from a small correction in l. 211: ἐπι`πε´πλεγμένων.

[28] R u p p r e c h t, *Recht und Rechtsleben* (cit. n. 11), p. 43 n. 141. In l. 211 'ἐπιπλεγμένων' is a misprint.

B. ‘Dispositif’

[1] τοὺς
212 μὲν καθ᾽ Ἑλληνικὰ σύμβολα συνηλλαχότας
213 Ἕλλησιν Αἰγυπτίους ὑπέχειν καὶ λαμβάνειν
214 τὸ δίκαιον ἐπὶ τῶν χρηματιστῶν.
[2] Ὅσοι δὲ Ἕλληνες
215 ὄντες συνγράφονται κατ᾽ Αἰγύ(πτια) συναλλάγματα
216 ὑπέχειν τὸ δίκαιον ἐπὶ τῶν λαοκριτῶν κατὰ τοὺς
217 τῆς χώρας νόμους.
[3] Τὰς δὲ τῶν Αἰγυ(πτίων) πρὸς τοὺς
218 αὐτοὺς <Αἰ>γυ(πτίους) κρίσεις μὴ ἐπισπᾶσθαι τοὺς χρημα(τιστάς),
219 ἀλλ᾽ ἐᾶν ⟦κριν⟧ διεξάγεσθαι ἐπὶ τῶν λαοκριτῶν κατὰ τοὺς
220 τῆς χώρας νόμους.

A. ‘Énoncé’

‘And they have decreed concerning the suits brought by Egyptians against Greeks and by Greeks against Egyptians, or by Egyptians against **<Egyptians and by Greeks against>** Greeks, with regard to all categories (of people), except those cultivating royal land, the workers in government monopolies (?) and the others who are involved with the revenues,

B. ‘Dispositif’

[1] that the Egyptians who have made contracts in Greek with Greeks shall give and receive satisfaction before the chrematists.

[2] Those who, being Greeks, make agreements by Egyptian contracts, shall give satisfaction before the *laokritai* in accordance with the laws of the country.

[3] Concerning the suits of Egyptians against fellow Egyptians, they decreed that the chrematists[29] must not take them over, but must leave them to be terminated before the *laokritai* in accordance with the laws of the country.’

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[29] To ‘Greek tribunals’ (thus in Pestman’s translation, ‘Competence’ [cit. n. 6], p. 569) I preferred the more neutral term ‘chrematists’, as the latter, though normally of Greek descent, were first and foremost *royal*, not ethnical, judges: see, e.g., R u p p r e c h t, *Recht und Rechtsleben* (cit. n. 11), p. 42: ‘ein allgemeines, nicht ‘national’ beschränktes Gericht.’ For the same reason the term ‘Greek’ in the title of Pestman’s contribution seems somewhat inappropriate (though actually correct). The same ‘mistake’ was made by e.g. D a v i d & Va n G r o n i n g e n, *Papyrological Primer* (cit. n. 11), pp. 116 and 117: ‘Greek tribunals’; P e s t m a n, *New Papyrological Primer* (cit. n. 11), p. 86, l. 214, comm.: ‘a member of a Greek court of justice’; C. P r é a u x in the index of *Le monde hellénistique. La Gréce et l’Orient (323–146 av. J.–C.)*, 2 vols., Nouvelle Clio. L’Histoire et ses problèmes 6, Paris 1978, p. 742; N a d i g, *Zwischen König und Karikatur* (cit. n. 2), p. 109; S. L i p p e r t, *Einführung in die altägyptische Rechtsgeschichte*, Einführungen und Quellentexte zur Ägyptologie 5, Berlin 2012², p. 87.

2. ANALYZING THE TEXT

In principle, each of the three rules set forth in the ordinance is defined by four elements, each time presenting a Greek and an Egyptian face, giving rise to various combinations, each with its proper implications: 1. the language of the contract underlying the procedure: Greek or Egyptian; 2. the nationality of the litigating contractors: Greek or Egyptian; 3. the court competent to hear the lawsuit: chrematists (royal court) or *laokritai* (Egyptian court); 4. the legislation to be applied: *politikoi nomoi* (Greek law; not explicitly mentioned) or *nomos tês chôras* (Egyptian law).[30] The specific combination of language (1) and nationality (2) determines the nature of court (3) and law system (4), language manifestly being the central factor.

Two preliminary remarks:

First, we will not speak about the categories of persons called by Modrzejewski 'les favoris du fisc',[31] mentioned in ll. 209–211. They were subject to the extraordinary jurisdiction, or, rather, the coercive power exerted by high (financial) officials.[32] There is nothing new to say about this subject. We should only keep in mind that a large number of people, especially those who were crucial to the welfare of the state, belonged to this class.

The second remark is about the decree's somewhat surprising terminology relating to contracts. Three terms are involved, as noun and/or as verb. First we have τοὺς καθ᾽ Ἑλληνικὰ σύμβολα συνηλλαχότας (ll. 211–212), followed by the Ἕλληνες who συνγράφονται κατ᾽ Αἰγύ(πτια) συναλλάγματα (ll. 214–215): on the one hand συναλλάττειν κατὰ (Greek) σύμβολα, on the other συνγράφεσθαι κατὰ (Egyptian) συναλλάγματα. Was the word *symbolon* (often found in papyrus documents) perhaps restricted to Greek contracts and intentionally avoided when Egyptian agreements (*synallagmata*) were involved? But the verb in the second phrase refers to the substantive *syngraphê*, well known from the Ptolemaic συγγραφὴ ἐξαμάρτυρος, the famous 'Doppelurkunde'. Or did it not matter at all?

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[30] On the different law systems and lawcourts in Ptolemaic Egypt, see, among the more recent studies and overviews: S e i d l, *Ptolemäische Rechtsgeschichte* (cit. n. 4), pp. 1–15 and 68–84; W o l f f, *Justizwesen* (cit. n. 11), pp. 31–112, *passim*; P r é a u x, *Le monde hellénistique* (cit. n. 29), pp. 277–280 and 590–601; W. P e r e m a n s, 'Égyptiens et étrangers dans l'organisation judiciaire des Lagides', *Ancient Society* 13/14 (1982/1983), pp. 147–159; J.G. M a n n i n g, *Land and Power in Ptolemaic Egypt. The Structure of Land Tenure*, Cambridge 2003, pp. 53–54, 231, 238 (esp. the *laokritai*); L i p p e r t, *Einführung* (cit. n. 29), pp. 85–87, 179–189, *passim* (on the *laokritai*: pp. 180–181, 184–186; on the chrematists: 182 and 187); R u p p r e c h t, *Recht und Rechtsleben* (cit. n. 11), pp. 16, 41–45; M é l è z e M o d r z e j e w s k i, '*Chrêmatistai* and *laokritai*' (cit. n. 11), pp. 471–472; *Loi et coutume* (cit. n. 4), pp. 37–231, *passim*.

[31] [M é l è z e] M o d r z e j e w s k i, 'Chrématistes et laocrites' (cit. n. 11), p. 704.

[32] Cf. R u p p r e c h t, *Recht und Rechtsleben* (cit. n. 11), pp. 45–46: 'Verwaltungsverfahren'.

At least the same term occurs in both phrases, once as a verb (συναλλάττειν), the other time as a noun (συναλλάγματα), making them less dissimilar than at first glance.[33]

HOMOGENEOUS LAWSUITS

We call lawsuits 'homogeneous' when the litigating parties belong to the same ethnic community: Greeks against Greeks, Egyptians against Egyptians. 'Mixed' lawsuits, on the other hand, are those involving both national groups.

Dealing with the category of homogeneous lawsuits, we will start with the pending ones mentioned in ll. 217–220 **[3]**: those to be 'terminated' in the Egyptian courts. They are the 'doorway', the key, to a correct understanding of the rest of the ordinance:

> τὰς δὲ τῶν Αἰγυ(πτίων) πρὸς τοὺς | αὐτοὺς <Αἰ>γυ(πτίους) κρίσεις μὴ ἐπισπᾶσθαι τοὺς χρημα(τιστάς), | ἀλλ᾽ ἐᾶν ⟦κριν⟧ διεξάγεσθαι ἐπὶ τῶν λαοκριτῶν κατὰ τοὺς || τῆς χώρας νόμους.

Pestman translates as follows, putting his own clarifications between round brackets:

> 'with regard to (pending) lawsuits of Egyptians against Egyptians (about contracts written in Greek) they decreed that the Greek tribunals must not take them over but must leave them to be terminated in the Egyptian tribunals, according to the Egyptian law.'[34]

As shown by Pestman and endorsed above, the unusual verb διεξάγεσθαι points to the exceptional and transitory character of the rule. But why were the chrematists so explicitly prevented from 'seizing' cases (note the strong verb ἐπισπᾶσθαι![35]) opposing Egyptians to fellow Egyptians, at a moment when *laokritai* were already — and still — dealing with them, that is to say, before they had finished their work? The strange measure implies that the chrematists were suspected of being eager to do so. Obviously, the *prostagma* had abruptly changed longstanding, accustomed procedures. Yet, the real implications are not so easy to discern as, oddly enough, no mention is made of the language expected to be used in the contracts underlying the said cases.

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[33] G r a d e n w i t z ('Das Gericht der Chrematisten' [cit. n. 11], p. 41) points to the (in his eyes) essential difference between Greek contracts (*symbola*) and Egyptian agreements (*synallagmata*). What he seems to emphasize, however, is their legal disparity ('zwei Rechtsordnungen, zwei Vertragsweisen'), not necessarily (as far as I understand) a difference in terminology, as he also speaks of Greek *synallagmata*.

[34] P e s t m a n, 'Competence' (cit. n. 6), p. 269; cf. our translation given above with some remarks concerning the rather inadequate term 'Greek tribunal' for defining the court of the chrematists (n. 29).

[35] Cf. W o l f f, *Justizwesen* (cit. n. 11), p. 88 n. 90: 'anscheinend etwas rhetorisch gefärbt.'

According to Pestman (see his translation quoted above),[36] the temporary rule only concerned *Greek* contracts. After its natural expiration, this kind of cases, for which the *laokritai* had until then been deemed qualified, were to become the *exclusive* competence of the chrematists. For the time being, the latter had only to restrain from an excess of zeal and wait for the termination of the pending suits initiated before the *laokritai*. The reasoning seems logical and in accordance with the general spirit of the *prostagma*, which linked the language to the type of court.

Reacting to Pestman's thesis in the 'Anhang' to the second edition of his *Justizwesen der Ptolemäer*, Hans Julius Wolff put forward that the rule in question concerned Egyptians *in general*, not only those who had contracted in Greek.[37] In other words: *Egyptian* contracts too were envisioned, implying that the silence about the contracts' language was anything but coincidental. Wolff is right, I think, as we have to respect and consider *as much as possible* the decree's exact wording. It means that the chrematists had to stay away from *all* current proceedings in the hands of the *laokritai*, irrespective of the contract's language. Henceforth — or after the period of transition at the latest — the suits between Egyptians issuing from Egyptian contracts would become the *exclusive* domain of the *laokritai*. This can be inferred from the fact that according to rule **[2]** even mixed cases based on Egyptian contracts were going to fall under the jurisdiction of the *laokritai* (with a possible exception in favour of the complainant: see below).

The foregoing paragraph suggests that before 118 the chrematists were also accustomed to deal with conflicts issuing from demotic contracts. That situation was soon going to belong to the past. But whereas the chrematists were *no longer* entitled to decide about Egyptian contracts (in view of rule **[2]**: see above), the Greek ones, even those between Egyptian litigants, would become, after the period of transition, their exclusive privilege (in view of the verb διεξάγεσθαι).

The question remains whether in 118 the chrematists were really suspected of trying to take over such 'genuine' Egyptian cases (Egyptians litigating over Egyptian contracts) already in the care of *laokritai*. Before 118, the *laokritai* were *ex officio* entitled to decide upon this kind of suits (as were obviously the chrematists, when requested), whereas from 118 on the *laokritai* would become the sole judges. So, in the given circumstances there was no legal ground — and consequently no concrete reason — for the chrematists to encroach upon the terrain of *laokritai* already engaged. That makes me think that the (intentional) omission of the language in rule **[3]** was merely a matter of principle ('*in no case* were the chrematists allowed to interfere with the current suits of the *laokritai*') and that the actual threat on their part (mainly or) only concerned suits based on *Greek*

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[36] 'Competence' (cit. n. 6), p. 269; see also n. 26 above.

[37] W o l f f, *Justizwesen* (cit. n. 11), p. 204: '(die) Verordnung, der seiner Fassung nach auf Ägypter *ganz allgemein* [my italics] gemünzt ist und nicht, wie Pestman zu meinen scheint, lediglich auf solche, die griechisch kontrahiert haben …'

contracts. The conclusion, then, must be that both Pestman and Wolff, be it each from a different viewpoint, were right, the former in a practical way, the latter on a more fundamental, theoretical level.

So, from 118 on (and after the expiration of the transitional period, of course), language became absolutely decisive when Egyptians were litigating versus fellow Egyptians over Greek as well as over Egyptian contracts, just as it became decisive in all other cases, as will be argued below. In other words, as far as the principle of personality or nationality (court and law determined not by language but by the legal status or nationality of the parties involved) had been in force until then (see further below), the provisional character of the restriction as enunciated in ll. 217–220 **[3]** shows that in future such principles would no longer obtain, at least not when lawsuits were based on contracts. Contrary to an until recent times generally believed opinion (on account of an inaccurate interpretation of the verb διεξάγεσθαι),[38] *there would be no exception to the rule*, even not for native Egyptians.[39]

Concerning 'homogeneous' lawsuits, the 'dispositif' (ll. 211–220) only deals with those initiated by the aforementioned Egyptians, who had concluded (Greek [and Egyptian]) contracts with each other. The fact that particularly the configuration of Egyptians litigating over Greek contracts seems to have been aimed at in the special, transitional rule, is an indication of its relative frequency. What remains obscure, unfortunately, is whether and in how far such Egyptians, irrespective of the contract's language, had up to 118 been *obliged* (or normally been *expected*) to apply to their own national courts when litigating with each other; in other words, whether and to what extent the said personality/nationality principle had actually been applied or enforced.[40] It seems that there was *no* such obligation, if we may rely on the scanty information provided by papyri like *UPZ* II 170–171 [127–126 BC]), and that the choice of the language was also free.[41] If our analysis

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[38] E.g., [M é l è z e] M o d r z e j e w s k i, 'Chrématistes et laocrites' (cit. n. 11), pp. 705 (with n. 3) and 707; P r é a u x, *Le monde hellénistique* (cit. n. 29), p. 278. See also n. 26 above, concerning Modrzejewski's (in my opinion) vain tentative to combine Pestman's translation with the traditional interpretation of the rule enounced in ll. 217–220 **[3]**.

[39] See P e s t m a n, 'Competence' (cit. n. 6), p. 269; *New Papyrological Primer* (cit. n. 11), pp. 85–86. According to Pestman, his Leiden teachers were already aware of the 'correct' interpretation of the verb in question and its implications, but left the problem undiscussed 'for didactic reasons' (p. 266). Considering the importance of the matter, this sounds rather strange, but it is true that in their introduction to no. 57, D a v i d & V a n G r o n i n g e n (*Papyrological Primer* [cit. n. 11], p. 116), while stressing the conclusiveness of the language chosen, kept silent about the traditional interpretation of ll. 217–220 **[3]**, according to which, by way of exception, the personality principle was maintained when both parties were Egyptian. Also Pestman himself seems to have realized the real implications of the verb's use as early as 1965: see n. 26 above.

[40] Cf. Wolff's reticence 'von vorn herein' concerning the 'Idee des Personalitätsprinzip': *Justizwesen* (cit. n. 11), p. 87.

[41] See W o l f f, *Justizwesen* (cit. n. 11), p. 204; R u p p r e c h t, *Recht und Rechtsleben* (cit. n. 11),

of the transitional rule **[3]** is correct, it would mean that a considerable number of Egyptians instinctively placed more confidence in Greek as a legal language than in their own mother tongue:[42] quite conceivable, as we can imagine that, in the eyes of some natives, Greek law and administration, or even culture in general, must have enjoyed a lot of prestige as being more reliable and juridically secure, in some respects more advanced and sophisticated. On the other hand, the rule also shows that the same Egyptians, at least in a number of cases, had preferred, in a most paradoxical way, their own familiar judges to the undoubtedly more influential (but in their eyes perhaps alien and awesome) chrematists.

Another question is whether these expiring cases brought before the *laokritai*, when they concerned Greek contracts, were going to be judged *according to Greek or to Egyptian law*. The answer is unambiguously given in ll. 219–220: at any rate (whatever the language of the contract) according to the 'law of the country'. Being traditional native priests, the *laokritai* were narrowly linked to Egyptian legislation, as is also shown by ll. 216–217. It is unthinkable because of this consideration, and impossible on the basis of rules **[2]** and **[3]** of the ordinance, that the *laokritai* would ever have been entrusted with the application of Greek legal rules, be it before or after 118. On the other hand, imagine Egyptian priests applying Egyptian law to Greek legal documents: to the Ptolemaic administration it must have been perceived as an anomaly, not to say an anachronism, as many Egyptians were bilingual and, as a matter of fact, more or less familiar with the Greek way of life. So we can understand why, *from now on*, when contracts were drawn up in Greek, these Hellenized — or should we say: Hellenophile? — natives were *compelled* to turn to the chrematists. But were they also subject to Greek *law*? This question will be tackled further on.

Let us first consider the other conceivable cases of homogeneous lawsuits.

At first glance, the 'dispositif' (contrary to the 'énoncé') does not seem to mention Greeks litigating with fellow Greeks over *Egyptian* contracts, the exact opposite of the more remarkable of the two configurations described above (Egyptians versus Egyptians, with a Greek contract): as if the administration took for granted that Greeks would always use their own language when making agreements with each other. However, if we take the wording in ll. 214–217 **[2]** literally (the opposing party being left unmentioned), it is possible that even this on

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pp. 44–45 (date of *UPZ* II 170–171 to be corrected). According to the same author, there must have been in general a great flexibility in the concrete use and application op the different languages and law systems: pp. 20, 27, 39–40.

[42] See R u p p r e c h t, *Recht und Rechtsleben* (cit. n. 11), pp. 17, 19 and 39–40, speaking about '(das) allmähliche Verschwinden der demotischen Urkunden im Geschäftsverkehr.' On the decline of demotic as a contract language, see also M a n n i n g, *Land and Power* (cit. n. 30), p. 238, imputing this phenomenon in part to the requirement of registration of demotic contracts, imposed by the Ptolemaic administration since 146 BC.

initial consideration unlikely situation was implicitly covered by the *prostagma*, as will be explained below.

Furthermore, the 'dispositif' does not speak about Greeks having written Greek contracts, nor even about Egyptians having written Egyptian ones within their own communities (unless, in an implicit way, in the provisional rule **[3]**, where Egyptian contracts seem involved, at least in principle). We can imagine that the government considered the overlap of nationality and language as the 'normal' situation, not requiring any specific regulation: was it not self–evident that lawsuits resulting from such contracts were the responsibility of the corresponding courts, chrematists and *laokritai*, respectively?

Strangely enough, the ordinance refers to only one of the legal systems in force in Ptolemaic Egypt: the *nomos tês chôras* (ll. 216–217 and 219–220) of the Egyptians. According to Modrzejewski in several of his studies,[43] 'the law of the country' pertains to traditional pharaonic legislation, codified under Darius I (if not earlier) and 'received' about 275 BC by the second Ptolemy, who gave it a kind of customary law status,[44] a plainly valid subsidiary system subordinate only to the king's own ordinances. As already emphasized, the *nomos* was closely connected and at both times explicitly associated with the *laokritai*, who seem exclusively to have judged according to (royal, as was required anyway, and) native law. Until 118 (and the end of the transitional period) they are likely to have applied this law system even to Egyptians who had concluded Greek agreements. From 118 on, however, the chrematists were to decide such cases.

The chrematists, for their part, are also referred to twice (ll. 214 and 218). In both instances they are related — once explicitly, once implicitly (*de facto* or for a large part: see the discussion about the pending lawsuits **[3]** above) — to Greek contracts. But, contrary to what might be expected, nowhere are they unambiguously linked to the Greek *politikoi nomoi*. As shown by Modrzejewski, this package of *nomoi*, in origin statute law deriving from a range of Greek *poleis*, after having fused into a kind of 'legal *koinê*', was also recognized by the king as a body of customary law for Egypt's countryside.[45] Considering what we said about Egyptian contracts and the *laokritai* courts, we would be inclined to conclude by 'contrasting analogy', that the disputes over Greek contracts assessed by the chrematists were to be judged according to Greek law.[46] This must surely be correct

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[43] The fundamental article, both on the Egyptian 'law of the country' and the Greek '*politikoi nomoi*', as well as on the royal legislation, is still J. [M é l è z e] M o d r z e j e w s k i, 'La règle de droit dans l'Égypte ptolémaïque', [in:] *Essays in Honor of C. Bradford Welles*, American Studies in Papyrology 1, New Haven 1966, pp. 125–173. A recent, updated synthesis is to be found in his *Loi et coutume* (cit. n. 4), pp. 37–231, *passim*, having very interesting pages (151–169) on how to really understand the said *politikoi nomoi* in all their nuances. See also the works referred to in n. 30 above.

[44] Slightly nuanced by L i p p e r t, *Einführung* (cit. n. 29), p. 86.

[45] N. 43 above. See also R u p p r e c h t, *Recht und Rechtsleben* (cit. n. 11), pp. 14–15.

[46] See, e.g., L i p p e r t, *Einführung* (cit. n. 29), p. 87, considering without discussion the chre-

in the case of Greeks litigating with each other or with Egyptians on the basis of Greek contracts (ll. 211–214 **[1]**; see below). But what about Egyptians internally quarreling over Greek contracts *after* 118, when it became *obligatory* to bring them before the chrematists? Spontaneously, we would decide for the *politikoi nomoi*. The fact that lines 219–220 refer to the Egyptian 'laws of the country' in connection with *laokritai* terminating the last inter–Egyptian cases, issuing mostly, as it seems, from Greek contracts, might suggest that, contrastingly, the chrematists would apply Greek law, for otherwise the shift would somehow have been pointless. Yet, complete certainty cannot be reached. The reason is that, properly speaking, the chrematists did not constitute 'Greek', but 'royal' courts. As a royal institution they were, in the words of Modrzejewski, 'en principe compétents pour tous les procès quelle que soit l'appartenance ethnique des justiciables.'[47] It is therefore conceivable, and even likely, that in certain circumstances they were allowed, expected or simply free to apply native law, but in fact we do not know.[48] Of course, the *laokritai* too had to observe royal law, superior as it was to Egyptian law, but being basically rooted in the natives' *ethnos*, their court was not 'royal' in the same sense. As direct representatives of the king, the chrematists ranked higher than the other tribunals and had to embrace in principle all legal systems recognized by him. That is perhaps the ultimate reason why in an official document like ours, they were not explicitly (and exclusively) linked to *Greek* law, although, as far as we can deduce from the onomastic data in the *Prosopographia Ptolemaica*,

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matists in our document a Greek court applying Greek law, in my opinion a somewhat hurried and simplistic statement. [Mélèze] Modrzejewski is more nuanced: see next note. Cf. n. 29 above.

[47] [M é l è z e] M o d r z e j e w s k i, 'Chrématistes et laocrites' (cit. n. 11), p. 700: 'juges royaux par leur origine'; cf. W o l f f, *Justizwesen* (cit. n. 11), pp. 76–79; R u p p r e c h t, *Recht und Rechtsleben* (cit. n. 11), p. 42. On this question, see also M é l è z e M o d r z e j e w s k i, *Loi et coutume* (cit. n. 4), pp. 179–180: 'À la vérité, les chrématistes ne sont pas des «juges grecs»' (p. 179).

[48] Yet, Wolff formally denies that possibility: *Justizwesen* (cit. n. 11), p. 83 with n. 74: 'Ihre Verhandlungssprache war griechisch, und griechisch war auch das Recht, das sie ihren Entscheidungen zugrunde legten'; 'Wohl zu Unrecht hält Peremans, …, für möglich, daß die Chrematisten unter Umständen auch ägyptisches Recht anwendeten.' But see R u p p r e c h t, *Recht und Rechtsleben* (cit. n. 11), p. 16: 'als Benutzerkreis [of the Greek translation of the demotic Codex of Hermopolis] werden das Gericht der Chrematisten und die Verwaltung angesehen.' Cf. *ibid*., pp. 44–45, 55. In this respect, M é l è z e M o d r z e j e w s k i (*Loi et coutume* [cit. n. 4], pp. 117–118) is more reticent, speaking of 'la reconnaissance du droit égyptien' and 'le respect (des traditions juridiques locales) et leur protection par *les organes de la justice* [my italics]' in general; see also p. 179 (still somewhat ambiguous): 'les chrématistes … ne sont pas … "obligés" d'appliquer le droit grec dans les procès qui leur sont soumis. Du reste, le texte du décret ne dit pas que les chrématistes emploient le droit grec, … *En fait*, les chrématistes, qui se recrutent parmi les "Hellènes", jugeront selon le droit grec [my italics].' One might also adduce here a lawsuit not brought before the chrematists to be sure, but before a high official, the *epistatês* of the *Peri Thêbas*, where both Greek and Egyptian legal rules are invoked: S e i d l, *Ptolemäische Rechtsgeschichte* (cit. n. 4), pp. 2–3, 81; P r é a u x, *Le monde hellénistique* (cit. n. 29), p. 596 (*UPZ* II 162 VII, ll. 2 and 9 [117 BC]). Cf. n. 47 above.

all were Greeks or at least Hellenized Egyptians.[49] However, as the authentic Greek courts, the *dikastêria*, had already disappeared decades before,[50] it might seem that the royal chrematists had become their natural, *factual* successors and substitutes, an evolution that may have enhanced their already firmly established Greek character. So, all in all, we are entitled to conclude with a high degree of confidence that the chrematists did *normally* apply the Greek *politikoi nomoi* when Greek contracts were under discussion. Only an extremely slight doubt remains in the case of Egyptians having made Greek contracts after 118. On the other hand, viewed from the perspective of the legal systems, we may take for granted that, after the disappearance of the *dikastêria*, the *politikoi nomoi* became the exclusive appanage of the chrematists.

MIXED LAWSUITS

Whereas the 'énoncé' (ll. 207–211), at least if we accept the emendation proposed by Pestman, comprises the whole range of litigating nationals — Egyptians against Greeks, Greeks against Egyptians, Egyptians against Egyptians, Greeks against Greeks — this completeness is apparently not reflected in the 'dispositif' (ll. 211–220), giving the impression of an uneven balance.

On the other hand, with regard to the mixed proceedings (involving Greeks as well as Egyptians), the 'dispositif' seems more informative than when dealing with the homogeneous ones, though only two instances are selected: on the one hand Egyptians having made a Greek contract with Greeks **[1]**, on the other Greeks with an Egyptian contract, without further specifying the adverse party **[2]**.

These are the rules as translated in the *editio princeps* of 1902:

[1] 'where Egyptians make an agreement with Greeks by contracts written in Greek they shall give and receive satisfaction before the chrematistae' (ll. 211–214);

[2] 'but where Greeks make agreements by contracts written in Egyptian they shall give satisfaction before the native judges in accordance with the national laws' (ll. 214–217).

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[49] See W. Peremans & E. Van 't Dack, *Prosopographia Ptolemaica* III+IX (1956/1981) 7956–8016a; cf. Seidl, *Ptolemäische Rechtsgeschichte* (cit. n. 4), p. 75; Wolff, *Justizwesen* (cit. n. 11), pp. 73–74, 82–83; Peremans, 'Égyptiens et étrangers' (cit. n. 30), pp. 156–158 (cf. Id., *Ancient Society* 4 [1973], pp. 60 and 69).

[50] On the *dikastêria*, see, e.g., Lippert, *Einführung* (cit. n. 29), pp. 181–182. The *dikastêria* were abolished after 176, perhaps in 173/172: D. Kaltsas, *P.Heid*. VIII (2001), pp. 3–9, esp. 7. The *koinodikion* (settling quarrels between Greeks and Egyptians) did not survive the end of the third century BC: Lippert, *Einführung*, p. 184; Rupprecht, *Recht und Rechtsleben* (cit. n. 11), p. 42. See also n. 30 above.

Greeks and Egyptians are not primarily presented in their capacity as litigants, but as contractors and, consequently, as *potential* litigants, i.e. *potential* complainants or *potential* defendants: Greeks against Egyptians or Egyptians against Greeks, depending on the specific circumstances in which conflicts arise, turning contractors into *actual* litigants. So there is no reason to distinguish in each case the alternately complaining and defending parties. In other words: 'Egyptians' and 'Greeks' are perfectly interchangeable here, as individuals of both nationalities could become complainants or defendants. In the 'énoncé' (ll. 207–209), on the contrary, where Greeks and Egyptians were essentially posing as litigants (not as contractors and *potential* litigants), complainants and defendants had in each case to be neatly specified.

Combining in both instances comprehensiveness with concision, the *prostagma* pointedly contrasts and alternates the two nationalities. The subjects of the two infinitive clauses — Egyptians and Greeks respectively: Αἰγυπτίους and (τοσούτους) ὅσοι Ἕλληνες ὄντες συνγράφονται — are presented as having made or making a contract in the opposite language: Egyptians having made a Greek contract with Greeks, on which the court of the chrematists has to pronounce; Greeks making an Egyptian contract, on which the *laokritai* should decide according to the Egyptian 'law of the country'. In principle we should expect, if not take for granted, that the other party to the contract, having become the opposing party in the lawsuit (one party 'giving satisfaction', the other 'receiving satisfaction'), was submitted to the same procedure and treated in the same way.

Yet, some clarification is required:

1. We already noticed that the rule put down in ll. 211–214 **[1]** fails to stipulate according to which legislation the chrematists had to pronounce their sentence. We also investigated the possibility whether in certain cases they were entitled to invoke Egyptian rules. Yet the fact that we are dealing here with a Greek contract and that one of the parties was Greek makes it almost certain that Greek law (the so–called *politikoi nomoi*) was applied: the other way around would go against common sense and be in contradiction with the general spirit of the ordinance as we have understood it up to now.

2. In the case of Greeks writing Egyptian contracts (ll. 214–217 **[2]**), on the other hand, it is the opposite party that is left unmentioned. If we interpret this rule as simply mirroring the previous one (ll. 211–214 **[1]**), intrinsically a sound approach, the solution seems obvious: the said Greeks would be doing business with native Egyptians. But the omission may have been a deliberate choice, as was the omission of the legal system to be applied by the chrematists. If this assumption is right, in other words, if we take the text to the letter — and why not, if it makes sense? — it may provide a solution for a problem already addressed. For it would imply that the rule did not only concern contracts with Egyptians (as might be

expected), but also with fellow Greeks. So the opposite party was probably not mentioned because persons of both nationalities may be meant. This might seem strange in a first approach, but in the end it proves logical. Egyptianized Greeks must have been numerous at the time and may have preferred, be it in a rather small number of cases as it seems,[51] to express themselves in Egyptian when doing business with other (Egyptianized) Greeks, just as there were many Egyptians who used Greek when dealing with their fellow (Hellenized) countrymen. According to the rule, these (Egyptianized) Greeks too should go to the *laokritai*.

If this 'maximalist' interpretation turns out to be right, and there is nothing that is likely to contradict it, there is a perfect balance between the decree's 'énoncé' (ll. 207–211) and its 'dispositif' (ll. 211–220). In the 'dispositif' we encounter Greeks versus Egyptians and vice versa, using both languages, as well as Greeks and Egyptians quarreling within their own national group in the opposite language. The only configurations that are missing, are those of Greeks versus Greeks and Egyptians versus Egyptians, with contracts in their respective mother tongues. But, as already pointed out, these cases were so obvious that they needed no explanation, whereas the Egyptians seem in some way to have been included in rule **[3]**. In other words, if we can agree on the interpretation given here, the 'dispositif' perfectly mirrors the 'énoncé'.

3. At this point of our argument, it is time to scrutinize whether certain slight inconsistencies and variations uncovered in the formulations of the respective rules (**[1]**, **[2]**, **[3]**) as enounced in the 'dispositif' (ll. 211–220) might not open the way for alternative interpretations. Indeed, the intriguing contrast between case **[1]**, where the party opposing the Egyptians is named, viz. the Greeks, and case **[2]**, which remains silent about the Greek party's opponents (see above, *sub* 2), could be seen as an argument against Pestman's view (endorsed here) and in favour of the traditional (including Modrzejewski's) interpretation concerning the jurisdiction of the *laokritai* in suits exclusively involving Egyptians **[3]**. For in itself it does not seem unthinkable that the author of the *prostagma* wanted to make a point with regard to the competence of the *laokritai* by formulating the rules in the way he did. We saw that **[1]** and **[3]** are the two cases explicitly referring to Egyptians, whereas in **[2]** they are only implicitly involved. For if litigating with Greeks over demotic contracts **[2]**, nobody would make a problem: they had to appear (just like other Greeks: see above, *sub* 2) before the *laokritai*. But when we compare and contrast **[1]** with **[3]**, the message could be intended as follows: Egyptians were *always* liable to be brought before the court of the *laokritai*, *even* with a Greek contract (personality/nationality principle still in force if quarreling between each

[51] According to R u p p r e c h t (*Recht und Rechtsleben* [cit. n. 11], pp. 17–18, 39), demotic documents in general were still numerous in the first half of the 3rd century BC, but from then on there was a long process of constant decrease. And whereas Egyptians often occur in Greek documents, especially contracts, Greeks in demotic contracts were less numerous: *ibid*., pp. 19–20. Cf. n. 42 above.

other) **[3]**, *except* when they were litigating *against Greeks* over *Greek contracts* **[1]**. In other words: Egyptians were explicitly mentioned in **[1]** and not in **[2]**, in order to contrast them with the Egyptians in **[3]**. However, for all its attractiveness, we have to discard this reasoning in favour of Pestman's view, which is based on his very convincing interpretation of διεξάγεσθαι. In the given context, this verb can only have one definite meaning.

4. Finally, a major problem still lurks in ll. 214–217 **[2]**. To a certain extent it is likely to remain a crux. Whereas in ll. 213–214 **[1]** we read ὑπέχειν καὶ λαμβάνειν | τὸ δίκαιον ('give and receive satisfaction'; 'comme défendeurs [respondents, defending party] et comme demandeurs [complainants, plaintiffs])' ἐπὶ τῶν χρηματιστῶν, there is only ὑπέχειν τὸ δίκαιον ('give satisfaction'; 'comme défendeurs')[52] ἐπὶ τῶν λαοκριτῶν in l. 216 **[2]**. Is this remarkable discrepancy due to another moment of distraction in the mind of our copyist? Think of the haplography emended by Pestman in l. 209. Or does it go back to the original and does it have a well–defined purpose, like (maybe) the ostensible 'irregularities' in ll. 214 (omission of the law system applied by the chrematists) **[1]**, 215 (omission of the opposing party) **[2]**, and 218 (omission of the contracts' language) **[3]**? And did a deliberate leaving out of λαμβάνειν in l. 216 point to an abandonment of the principle of reciprocity and judicial equality, not to say logic, a principle that seems to underlie the rest of the decree? Wenger (after careful yet hesitating consideration) and others in his footsteps, like Rupprecht, lately, preferred to emend l. 216 as follows: ὑπέχειν <καὶ λαμβάνειν> τὸ δίκαιον.[53] That would by all means be the simplest solution. But is it the right one?

Inspired by Wolff, Modrzejewski[54] challenged Wenger's emendation and made another suggestion. The absence of the verb λαμβάνειν would mean that in (mixed) cases resulting from an Egyptian contract **[2]**, the choice was the complainant's. If the latter wanted to bring the lawsuit before the *laokritai*, the respondent could not refuse and Egyptian law was applied, as expressly stipulated in the *prostagma*. But if the plaintiff preferred the chrematists, it was the royal court that was asked to decide the lawsuit, notwithstanding the Egyptian language of the contract. Wolff speaks of a 'Klägerprivileg'. It could be advantageous to Greeks with a poor knowledge of Egyptian.[55] An additional question, then, is whether the chrematists would judge according to Greek or to Egyptian law (or even a combination of

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[52] See the translations in *P.Tebt*. I 5 (cit. n. 1), p. 54, and [Mélèze] Modrzejewski, 'Chrématistes et laocrites' (cit. n. 11), p. 707.

[53] Wenger, 'Rechtsurkunden' (cit. n. 11), pp. 493–494; Rupprecht, *Recht und Rechtsleben* (cit. n. 11), p. 43 n. 143 (but cf. n. 141); cf. [Mélèze] Modrzejewski, 'Chrématistes et laocrites' (cit. n. 11), pp. 702–703; see also nn. 15–17 above. Pestman remains silent about this problem, both in his *BASP* article (cit. n. 6) and in the *New Papyrological Primer* (cit. n. 11).

[54] [Mélèze] Modrzejewski, 'Chrématistes et laocrites' (cit. n. 11), pp. 706–707.

[55] Wolff, *Justizwesen* (cit. n. 11), p. 88 n. 91 and p. 204.

both). At any rate, if Modrzejewski is right, we can take for granted (because of the arguments expounded above) that, in all probability, this procedure had to be observed not only when (always on the basis of Egyptian documents) Greeks were suing Egyptians or Egyptians Greeks, but also when Greeks sued each other.

Assuming Modrzejewki's interpretation is basically correct, would not such a ruling cause a significant degree of judicial imbalance, as already suggested? And what was its exact purpose or advantage? Difficult to say. Of course, the defendant (if Greek) could be put in a less favorable position, whereas the complainant (if Egyptian) found himself in the opposite situation, but, as explained above, both parties could be of either nationality. Admittedly, the weight of the *laokritai* (and Egyptian law) seemed strengthened, as this court could be imposed by the (Egyptian [or even Greek]) plaintiff, but was this not 'normal' when an Egyptian contract was at stake? On the other hand, the intervention of the *laokritai* could be avoided as well, which, in turn, would benefit the Greek complainant (see the remark of Wolff) and reinforce the influence of the chrematists. As 'their Master's voice' the royal judges *ipso facto* occupied an advantageous position. Yet, the overt provision that the complainant had the right to impose the *laokritai* could also be seen as a protective measure in favour of the Egyptian judges against the expansionism of the chrematists, just like the chrematists had to be (temporarily) restrained in ll. 217–220, where Greek (and possibly Egyptian) contracts were involved. All in all, a final assessment is difficult to pronounce, the more so as the rule, in this interpretation, seems to have been a matter of checks and balances.

So a definite choice between the old thesis of the lazy copyist on the one hand, and Wolff's and Modrzejewski's consequent allegiance to the transmitted text on the other, is a hopeless task. A serious objection to the latter thesis could be that literalism in this case seems to complicate matters (needlessly?), whereas real aims and benefits remain rather obscure. A more decisive argument is that if the complainant really had the choice, one would expect a more outspoken formulation: both courts, not only that of the *laokritai*, should have been mentioned. Is it in the end not preferable, then, to follow Wenger and think — be it with the same moderate enthusiasm as his — in terms of a copyist's slovenliness?

At any rate, from now on, both Greeks and Egyptians were esteemed to know that when writing a contract in the language of the other ethnical group, they took the risk (at least as defendant) to appear before a court specifically connected to that group.

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The conclusion of our analysis must be that, contrary to the (majoritarian) received opinion, structure and even wording of the *prostagma* in its original version were anything but clumsy.[56] Only the strictly technical aspect of the transcription — the work essentially done by the copyist — showed some failures (and these seem to have been restricted to a minimum). The text once issued by the palace was extremely brief, but correct and accurate, virtually complete and well–balanced, much more than hitherto admitted.

CONSPECTUS

The following overview inventories all possible combinations according to the interpretation given above, including the litigating parties' ethnicity, the language of the contracts, the competent law court, the applicable national legislation (always subsidiary to royal law). The data between round brackets are conjectural but probable; those between square brackets are deemed more questionable, though not impossible. Except when specified otherwise, the scheme refers to the conditions created by the ordinance of 118 BC.

1. Transitional rule: Egyptians versus Egyptians, already initiated by the *laokritai* — Greek (/ Egyptian) contract –> *laokritai* — Egyptian law
2. (Greeks versus Greeks — Greek contract –> chrematists — Greek law)
3. Greeks versus (Greeks) — Egyptian contract –> *laokritai* — Egyptian law / [–> chrematists, only at the request of the complainant — which law?]
4. Egyptians versus Egyptians — (Egyptian contract)
   a. –> up to 118: *laokritai* — Egyptian law / (chrematists — which law?)
   b. –> from 118 on: *laokritai* — Egyptian law
5. Egyptians versus Egyptians — (Greek contract)
   a. –> up to 118: chrematists — (exclusively Greek law?) / *laokritai* — Egyptian law
   b. –> from 118 on: chrematists — ([exclusively?] Greek law)
6. Egyptians versus Greeks / Greeks versus Egyptians — Greek contract –> chrematists — (Greek law)
7. Greeks versus (Egyptians) / (Egyptians) versus Greeks — Egyptian contract –> *laokritai* — Egyptian law / [–> chrematists, only at the request of the complainant — which law?]

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[56] That was also the basic opinion of [M é l è z e] M o d r z e j e w s k i, 'Chrématistes et laocrites' (cit. n. 11).

3. LOOKING BEYOUND

GREEKS AND EGYPTIANS

There has been a great deal of debate among ancient historians on subjects like ethnicity, national and other identities, social integration, intercommunal relations, and so on. Much attention has been paid to the well–documented pluricultural societies of Hellenistic and Roman Egypt. Cases in point are an article published almost a decade ago by Anne–Emmanuelle V e ï s s e, in which our *prostagma* is duly taken into account, and the recent study of Sandra C o u s s e m e n t on polyonymy in Ptolemaic Egypt, offering both a thorough, nuanced and comprehensive insight into the different aspects of ethnicity, appropriately characterized as 'a multi–layered phenomenon,' and a clear and relevant state of the art.[57]

It is perhaps no coincidence that the gradual disclosure of demotic sources took place in an era of widespread political, cultural and particularly 'mental' decolonisation. Leading to a growing interest in Egyptian civilisation, it resulted in a profound reevaluation of the natives' unique contribution to the development of the Ptolemaic state, its administration, army and religious institutions. A remarkable example of this new approach is Christelle Fischer–Bovet's study of the Ptolemaic army (2014),[58] a historical rehabilitation — an emancipation post factum, so to speak — of Egypt's in several respects continually disadvantaged ethnical majority.[59]

In the meantime, our understanding of concepts like 'nationality' or 'national identity' has been refined. Whereas the famous 'composite' definition once given by Herodotus (VIII 144)[60] is still simple and workable (and a clear proof that

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[57] A.–E. V e ï s s e, 'Statut et identité dans l'Égypte des Ptolémées: les désignations d'»Hellènes« et d'»Égyptiens«', *Ktema* 32 (2007), pp. 279–291, esp. 281–283, giving the necessary bibliographical references; S. C o u s s e m e n t, *'Because I am Greek'. Polyonymy as an Expression of Ethnicity in Ptolemaic Egypt*, Studia Hellenistica 55, Leuven–Paris–Bristol (CT) 2016 (quotation p. 136).

[58] F i s c h e r – B o v e t, *Army and Society* (cit. n. 5), with a chapter on the ethnic composition of the army, pp. 160–195.

[59] The peculiar position of the Jews in the Ptolemaic system has also become a favoured topic: e.g. J. M é l è z e M o d r z e j e w s k i, *Les Juifs en Égypte de Ramsès II à Hadrien*, Paris 1997[2]; *'Un peuple de philosophes'. Aux origines de la condition juive*, Paris 2011, or several recent studies by Th. K r u s e, among which 'Zwischen Integration, Assimilation und Selbstbehauptung: Das Politeuma der Juden von Herakleopolis in Mittelägypten', [in:] A. P ü l z & E. T r i n k l (eds.), *Das Eigene und das Fremde. Akten der 4. Tagung des Zentrums Archäologie und Altertumswissenschaften an der Österreichischen Akademie der Wissenschaften 26.–27. März 2012*, Österreichische Akademie der Wissenschaften, Phil.–Hist. Klasse, Denkschr. 482 = Origines. Schriften des Zentrums Archäologie und Altertumswissenschaften 4, Wien 2015, pp. 73–81.

[60] Pithy translation by Ph.–E. L e g r a n d in the Budé edition (Les Belles Lettres 1964): 'même sang et même langue, sanctuaires et sacrifices communs, semblables moeurs et coutumes.' Everything is there. It is evident that much can be classified under 'semblables moeurs et coutumes': technological

national consciousness is not an invention of the 19th century), we have become aware of the fact that such rich and complex notions can cover different meanings, be approached on different levels and from different viewpoints, depending on the context in which they are used. What Herodotus states about sharing the same descent ('the same blood' — we would call it 'ethnicity', without racial overtones at any rate), language, religion ('sanctuaries and sacrifices' as he puts it), and usages (or customs, traditions, 'lifestyle'), has to do with *cultural* and *ethnical* identity, and it is evident that, according to circumstances, one or more of these constitutive elements will be put in the foreground. Generally, such identities are strong and durable. At a certain moment Greekness, at least in the minds of some prominent intellectuals, was disconnected from its ethnical roots to become a question of education and way of thinking rather than of physical kinship, showing at the same time a feeling of superiority and implicitly narrowing the concept to its Athenian variant.[61] But that is another discussion. At any rate, for a long time the relation with a *polis* or (even pseudo–) *ethnos* remained essential in Egypt.

Yet, over time changes in ethnical or cultural awareness and self–perception are possible. Even in the short run fundamental switches can happen, e.g. as a consequence of mixed marriages. To a certain extent that has been the case in Egypt, where such marriages became more frequent from the second century BC on. So, at least as far as these kinds of identities were concerned, the originally neat borderlines between Greeks and Egyptians began to be gradually blurred.[62] Hellenized Egyptians and Egyptianized Greeks — 'Graeco–Egyptians' as they are often referred to — became more and more numerous. Well–known is the large, ethnically ambiguous family of Drytôn, whose archive includes legal documents in both languages. His second wife, Apollonia, is a striking example of how intricate such situations could be. Another important aspect of this new civilization in the making, was the strange phenomenon termed by Willy C l a r y s s e[63] a 'society with

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development, art forms and artistic products, a shared view on a (whether or not reconstructed) common past etc.

[61] Remember the famous passage in Isocrates' *Panegyricus* (IV) 50, 380 BC.

[62] Similar phenomena can be found in completely different historical settings. As shown by the Dutch scholar M. J a n s e n (*Grensland. Een geschiedenis van Oekraïne*, Amsterdam 2014, pp. 59–88, esp. 66), for instance, 19th century awakening Ukrainian nationalism had its ups–and–downs. Divided between the Austrian and Russian empires, the country was subject to russification on one side and strong Polish cultural influences on the other. Moreover, due in part to mixed marriages, especially in cities like Kiev, people were often uncertain about their ethnical or cultural identity.

[63] W. C l a r y s s e, 'Grieken in Egypte, van Alexander tot Mohammed', [in:] P.W. P e s t m a n e.a. (eds.), *Vreemdelingen in het land van Pharao*, Zutphen 1985, Ch. 3, pp. 27–42, esp. 31–32; 'Greeks and Egyptians in the Ptolemaic Army and Administration', *Aegyptus* 65 (1985), pp. 57–66; see also 'Some Greeks in Egypt', [in:] J. J o h n s o n (ed.), *Life in a Multi–Cultural Society: Egypt from Cambyses to Constantine and Beyond*, Studies in Ancient Oriental Civilization 51, Chicago l992, Ch. 6, pp. 51–56.

a double face': persons alternately behaving as pure Greeks and pure Egyptians, depending on the context in which they had to function, without mixing up the two cultures. Obviously, individuals were more assimilative than cultures.

That is why, in the words of Fischer–Bovet, 'a discrepancy between socio–cultural and administrative realities'[64] began to emerge. In other words, whereas, at the start of the Ptolemaic era, ethnical, cultural and legal identities overlapped, things were fundamentally changing from the second century BC on. No longer were legal or fiscal[65] nationality necessarily backed by cultural or ethnical identity. That must inevitably have led to confusion and conflictual situations, especially in periods of civil war and social upheaval like in the years preceding the edict of 118.

The *prostagma* itself is a good illustration of the equivocalness described. On the one hand the text indirectly points to the phenomenon of Egyptianization and Hellenization. Via the 'homogeneous' lawsuits we discover the existence of Greeks using Egyptian and Egyptians using Greek contracts. Whereas the Hellenized Egyptians are temporarily profiting from a transitional provision, their antipoles, as we saw, are in all probability concealed behind the general stipulation concerning the Greeks with Egyptian contracts. Unnecessary to call to mind here the (sometimes strongly) Hellenized Jews in Ptolemaic Egypt. While generally remaining attached to their religion, they saw themselves confronted with similar situations as their Egyptian counterparts.

Meanwhile, Ptolemy VIII firmly speaks of 'Greeks' and 'Egyptians', without any trace of hesitation. In spite of all cultural shifts and ethnical fusion, *Hellênes* and *Aigyptioi* appear as clearly distinct, fixed categories. Contrary to the rather fluid cultural and ethnical groups, the objectively determinable *legal* nationalities were anything but void or obscure.[66] Even a man with a double face needs a single official identity. At the same time, it is clear that Ptolemy only recognizes *two* such categories. Their respective designations prove that, notwithstanding the prevailing vagueness at the cultural level, their origins are rooted in two distinguishable ethnical groups. So, even when speaking in strictly legal terms as the king does in

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[64] Fischer–Bovet, *Army and Society* (cit. n. 5), p. 250. On mixed marriages, see *ibid*., pp. 247–251. On the archive of Dryton: K. Vandorpe & S. Waebens, *Reconstructing Pathyris' Archives. A Multicultural Community in Hellenistic Egypt*, Collectanea Hellenistica 3, Brussel 2009, pp. 102–113, § 36; on bilingualism, biculturalism, and double or ambiguous identity: *ibid*., pp. 87–90, § 31.

[65] On this fiscal ('tax–Hellenes') and other nationalities, see W. Clarysse & D. Thompson, *Counting the People in Hellenistic Egypt,* 2 vols., Cambridge 2006, II, pp. 138–147, esp. 142; cf. Rupprecht, *Recht und Rechtsleben* (cit. n. 11), pp. 9 and 44 ('Steuergriechen').

[66] Compare Ruppreht, *Recht und Rechtsleben* (cit. n. 11), pp. 7–9 ('Die juristische Gliederung ist in ptolemäischer Zeit … sehr einfach' [p. 7]). On the other hand, he thinks (p. 44) that at the time of the decree, it must have caused problems to establish an individual's nationality; to the same extent, Lippert, *Einführung* (cit. n. 29), p. 181: 'die (zu diesem Zeitpunkt kaum noch eindeutig feststellbare) Nationalität der Parteien'.

his *prostagma*, the national (cultural as well as ethnical) factor continues to exert its influence. Its resilience is confirmed by a limited yet revealing series of documents ranging from the late third century BC until the reign of Caracalla, displaying some latent or less hidden, at times even outspokenly nationalistic animosity between Greeks and native Egyptians.[67] It is important to keep this in mind, as there is an undeniable tendency among present–day scholars to play down the national aspect in certain conflicts in Antiquity.

On the other hand, if cultural and ethnical differences had lost something of their sharpness in the course of the second century BC, it is hardly credible that a large number of persons had become uncertain about their *legal* nationality. Yet, as other layers of national identity were increasingly disconnected from the legal one — Egyptians writing and feeling Greek; Greeks in the countryside becoming imbued by the culture of their neighbours — in the long run legal identity too risked to come under pressure, particularly in a country suffering from protracted chaos. In such circumstances, some could unduly claim a dubious legal nationality. Claire P r é a u x even speaks of 'confusions génératrices de conflits où pouvait se manifester une hostilité entre Grecs et Égyptiens.'[68]

Reacting against growing cultural ambiguities, which by now had led to cultural realities, perhaps threatening to become legal *faits accomplis*, the administration saw only one way out: from now on, the language of the contract should be the decisive, objective and compulsory criterion when appointing the specific tribunal for the parties concerned.

After 118, the choice of the language used in contracts remained free, but no longer that of the tribunal, which became firmly linked to the language chosen. But this requirement was only an obligation in the second degree. Everybody was supposed to know the consequences of his initial choice. The question, then, is whether, in the long term, this link did not risk to influence the choice of the language or, conversely, whether the preference for a language was not going to be to the benefit or the detriment of a given type of law court.

THE SURVIVAL OF THE FITTEST

Apart from the extraordinary jurisdiction, practiced by high officials and the civil service, only two types of regular tribunals were still operational in 118 BC: on

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[67] C l a r y s s e, 'Grieken in Egypte' (cit. n. 63), pp. 34–42; R u p p r e c h t, *Recht und Rechtsleben* (cit. n. 11), pp. 10–13 ('erstaunlich wenig' [p. 13], according to the author, but salient nevertheless); C o u s s e m e n t, *'Because I am Greek'* (cit. n. 57), pp. 140–145 (with well–balanced conclusions). One might also refer to the outspoken contempt for native Egyptians nourished by some Graeco–Macedonian Ptolemaic milieus: H. H a u b e n, 'Callicrates of Samos and Patroclus of Macedon, champions of Ptolemaic thalassocracy', [in:] K. B u r a s e l i s, M. S t e f a n o u & D.J. T h o m p s o n (eds.), *The Ptolemies and the Sea. Studies in Waterborne Power*, Cambridge 2013, pp. 39–65, esp. 61.

[68] P r é a u x, *Le monde hellénistique* (cit. n. 29), p. 398.

the one hand, the *laokritai*, Egyptian tribunals presided over by three native priests controlled by a Greek *eisagôgeus*; on the other, the royal court of the chrematists, each time three professional judges of Greek nationality, also accompanied by an *eisagôgeus*. After the relatively early disappearance of the Greek jury courts (*dikastêria*), probably in 173/172 BC, the chrematists had obviously assumed the role of Greek law courts, applying, besides royal law, the so–called *politikoi nomoi* of the Greeks, in some cases perhaps also taking into account the legislation of the Egyptians. The *koinodikia*, 'common courts' for disputes between Greeks and Egyptians, had already disappeared before the end of the third century BC.[69] Was it not inevitable, then, that after the national courts of the Greeks, the native Egyptians would leave the judicial scene as well?

According to the *prostagma*, the *laokritai* would henceforth be competent only for trials issuing from disputes over *Egyptian* contracts, without making any allowance for personal ethnicity. Until 118 they had obviously been permitted to decide cases between Egyptians, even when issuing from *Greek* contracts. Though being allowed to finalize the current suits, it was no longer them but the chrematists who received the responsibility over for this kind of cases. By itself, the switch did not necessarily entail a restriction in the sphere of action of the *laokritai*, as from now on *all* Egyptian contracts would fall under their competence (with possibly a restriction in favour of the complainant), but *in reality* their impact and prestige must have diminished, as the percentage of Egyptian documents was already on the decrease.[70] Moreover, as we explained, simply compared to the *laokritai*, the chrematists were in the stronger position, being, so to speak, the direct mouthpiece of the king.

Nevertheless, the third rule formulated by the ordinance (ll. 217–220), showed something very striking. On the one hand, there were a number of Egyptians preferring to write contracts in the then world language of the dominant minority, but, on the other hand, choosing to rely on their own *laokritai*. For that kind of 'bicultural', Hellenophile people the Egyptian colleges would fall away in the next future, to the advantage of the chrematists. While questions of competence and responsibility were cleared up, the (judicial) gap between the two ethnical communities was getting larger.

It is not to be excluded (though remaining pure speculation) that in the turmoil of the dying Ptolemaic empire, the traditional *laokritai* were gradually perceived as less efficient and successful than the royal courts and thus lost the confidence of the population. Whatever the case, perhaps less than a century after their original Greek colleagues, they faded away and disappeared in their turn. That may already have happened soon after the promulgation of the ordinance, when the chrematists

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[69] See above with n. 50.

[70] See above, n. 42.

appear to have actually taken over specific responsibilities from their Egyptian counterparts.[71]

In the final analysis the eighth Ptolemy's *prostagma* was a well–intentioned but futile measure, threatening to turn our learned speculations, for all the intellectual pleasure they procure, into a merely theoretical issue.

What happened to the Egyptian courts can be explained in terms of what one might call the 'Eurosong effect'. The Eurovision Song Contest is a popular example of what 'freedom' brings about in a context of unequal pluriformity, suggesting what happens when a society is confronted from within with forms of (even unintentional) cultural, economical, linguistic etc. imperialism. Freedom of language resulted in a charming and innocuous, but nonetheless absolute English dominance.[72] Freedom in Ptolemaic Egypt was bound to lead to Hellenic ascendancy, despite the many assimilated Greeks, and to the fatal primacy of Greek inspired royal institutions. No wonder, then, that among the regular lawcourts in the *chôra*, 'the winner took it all.' At least for the time being. The Roman intervention would open new horizons, creating new — mainly social — borderlines.[73]

A HIDDEN AGENDA?

Before Pestman's reinterpretation of the *prostagma*, especially of ll. 217–220 **[3]**, the general feeling was that Ptolemy VIII, by forbidding the chrematists to interfere in the cases entrusted to the *laokritai* and thus conceding some privileges to the latter, wanted to safeguard their apparently endangered position. For according to the original reading of that specific measure, when the litigating

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[71] See L i p p e r t, *Einführung* (cit. n. 29), p. 181: 'Die Laokriten sind nur noch bis an das Ende des 2. Jh. v.Chr. direkt nachzuweisen, doch könnte dies auf Fundzufall beruhen'. Already in 52/51 BC there was a lawsuit issuing from an Egyptian contract brought before the chrematists in Heracleopolis (*BGU* VIII 1827). Yet, Lippert supposes, on the basis of some indirect evidence, that *laokritai* may have been active (obviously only in 'Bagatellsachen') until the early first century AD, but we do not know. See also the evidence collected by R u p p r e c h t, *Recht und Rechtsleben* (cit. n. 11), pp. 44–45; cf. W o l f f, *Justizwesen* (cit. n. 11), p. 89; M a n n i n g, *Land and Power* (cit. n. 30), pp. 231 n. 15 and 238.

[72] From the start of the Eurovision Song Contest in 1956 till 1965, when English was not yet as prevalent as it is today, every participant was free to sing in the language of his or her choice. Between 1966 and 1973 and once more between 1977 and 1998, the use of (one of) the own national language(s) was compulsory. In 1994, the Polish candidate, who sung her song in English during the decisive rehearsal (shown to the members of the jury), was not removed, despite the objections of several countries. Again in 1999 the choice became completely free. From that year on, the position of English became overwhelmingly dominant. With the exception of 2004 and 2007, all winning songs until 2015 were performed in that language. Details can be found in the different versions of the Wikipedia article on the 'List of languages in the Eurovision Song Contest'.

[73] Y. B r o u x, *Double Names and Elite Strategy in Roman Egypt*, Studia Hellenistica 54, Leuven–Paris–Bristol (CT) 2015, esp. pp. 25–62.

parties were both Egyptian, the principle of personality or nationality had to be observed, whereas in all other cases the decisive factor was to be the language of the contract. That would mean that, even if Egyptians gave preference to Greek contracts (as some, if not many, of them had already done before), they unavoidably remained submitted to the jurisdiction of their own judges. By protecting the Egyptians against themselves, as it were, the allegedly pro–Egyptian (and anti–Hellenic) king wanted to support the *laokritai* and, by extension, the Egyptians, in their resistance to the obtruding Greeks.[74] In order to substantiate this royal *parti pris*, one could refer to the different clashes (among them the bloody repression of 127/126) between the surely atrocious and decadent Ptolemy VIII and his Greek opponents, especially the Alexandrian upper class and intelligentsia. The conflict led to flights, expulsions, revolts etc.

But the king himself was considered a *philologos*,[75] whereas the said collision has to be seen in the broader context of his struggle with Cleopatra II.[76] Moreover, the *polis* of Alexandria was not Egypt, where the Greeks and Egyptians of the *prostagma* were living, and a conflict with one national group (in fact a single social and 'political' subclass of that group) did not necessarily entail a preferential judicial treatment of the other. It is true that, just like the first Euergetes, his ancestor, namesake and so–called model, the eighth Ptolemy was a supporter of Egyptian temples,[77] but so were many members of the dynasty.[78] Nevertheless, it

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[74] Grenfell & Hunt, *P.Tebt.* I 5 (cit. n. 1), p. 54; Wenger, 'Rechtsurkunden' (cit. n. 11), p. 492; Seidl, *Ptolemäische Rechtsgeschichte* (cit. n. 4), p. 13; [Mélèze] Modrzejewski, 'Chrématistes et laocrites' (cit. n. 11), p. 705: '[le] véritable objectif [du décret] est de consolider les juridictions indigènes'; Wolff, *Justizwesen* (cit. n. 11), pp. 87–88; see also Peremans, 'Égyptiens et étrangers' (cit. n. 30), pp. 158–159; Bagnall & Derow, *The Hellenistic Period* (cit. n. 11), p. 100; Nadig, *Zwischen König und Karikatur* (cit. n. 2), p. 109: 'Es ist anzunehmen, daß dabei besonders die Ägypter vor Übergriffen seitens der griechischen Bevölkerung [which seems somewhat exaggerated] geschützt werden sollten.'

[75] Nadig, *Zwischen König und Karikatur* (cit. n. 2), p. 191.

[76] On this struggle and the reign of Ptolemy VIII, see Préaux, *Le monde hellénistique* (cit. n. 29), pp. 390–391; G. Hölbl, *A History of the Ptolemaic Empire*, London–New York 2001, pp. 194–204, *passim*; Nadig, *Zwischen König und Karikatur* (cit. n. 2), pp. 96–97, 180–183; cf. 191–194; 210–211 (very nuanced).

[77] Hölbl, *A History of the Ptolemaic Empire*, pp. 195–196, 198.

[78] Some interesting but controversial phenomena should preferably be left out here, like the difficult to date and interpret 'Potter's Oracle' (possibly pointing to a strained relationship between the king and the natives): see Préaux, *Le monde hellénistique* (cit. n. 29), pp. 394–396; Nadig, *Zwischen König und Karikatur* (cit. n. 2), pp. 195–198. The rebellion of the supposed indigenous pharaoh Harsiese (132/131 BC), on the other hand (Nadig, pp. 11, 107–108, 197–198, 230), seems to be a factoid: see A.–E. Veïsse, 'L'expression "ennemi des dieux": *Theoisin echthros*', [in:] P. Van Nuffelen (ed.), *Faces of Hellenism. Studies in the History of the Eastern Mediterranean (4th century B.C. — 5th century A.D.)*, Studia Hellenistica 48, Leuven–Paris–Walpole (MA), pp. 169–177 (with thanks to Dorothy Thompson, who kindly drew my attention to this article).

must be conceded that several ordinances among those in the 118 Amnesty decree seem very beneficial to the simple farmers and native Egyptians,[79] but does this also hold for our specific *prostagma*?

The question is whether, in the light of Pestman's reinterpretation, one can still detect some 'intelligent design' hidden between the much discussed lines 217–220. In other words, did the king pursue some pro–Egyptian — or other — plan when dealing with that particular group of Egyptians, some of whom — if not most or all — were torn between their (true or opportunistic) love of Greek culture and their devotion to the own native courts? Of course, one cannot deny that Ptolemy tried to restrain the chrematists from a likely outburst of *excès de zèle* to the detriment of the *laokritai*, but what was temporarily prohibited, would soon become the norm. And it is that final result that must be reckoned with.

On the one hand, we might speculate that by taking the Greek contracts from the *laokritai*, the king, despite his provisional benevolence, wanted to alienate Hellenized Egyptians from their own traditional law courts. On the other hand, it might be objected that, by linking the obviously still popular *laokritai* to Egyptian contracts, he just appeared to encourage the use of the native language among the same people. Such reasonings, therefore, prove hardly productive. And in the meantime we learned what actually happened with the Egyptian courts.

So let us think along other lines and look at the ordinance in its entirety. Most striking is the absolute consequence and logic manifested by the king's intervention. His aim, so it appears, was a global rationalization of judicial practice over the whole of Egypt. What he wanted, in his old age, was a clear, objective and orderly ruling for both main national communities, whose destinies seemed to become increasingly intertwined. His aim was to protect order, not native Egyptians. The temporary exception concerning the Egyptians with Greek (and possibly also Egyptian) contracts must have been provided for reasons of expediency:[80] It would prevent a lot of dissatisfaction, needless disputes, overlap of work and a considerable waste of energy. For once, his decisions were practical and wise. But it was too late. No longer could the general process of 'Entsolidarisierung' be halted — an insidiously spreading loss of solidarity, within the population and between the king and his people.[81] From the start, the judicial reform was a mission impossible.

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[79] P r é a u x, *Le monde hellénistique* (cit. n. 29), pp. 396–398; N a d i g, *Zwischen König und Karikatur* (cit. n. 2), pp. 106–109; cf. 210–211.

[80] See also the short discussion in R u p p r e c h t, *Recht und Rechtsleben* (cit. n. 11), pp. 43–44.

[81] Described in a suggestive manner by C. P r é a u x, 'Un problème de la politique des Lagides: la faiblesse des édits', [in:] *Atti del IV Congresso Internazionale di Papirologia, Firenze 28 aprile — 2 maggio 1935*, Suppl. ad 'Aegyptus', Serie Scientifica 5, Milano 1936, pp. 183–193.