The False Guardian: An Interpretation of P.Eleph.Wagner 1

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ABSTRACT

The paper examines a third-century BCE papyrus recording the conviction of a man who had somehow usurped the guardianship of a woman. A new interpretation is offered for a key phrase in the text; this leads to a modified view both of the case under consideration (possibly that of a marriage contracted without the consent of the bride's proper guardian, her father) and of an otherwise unknown regulation invoked by the judges in their ruling (possibly to be seen as an attempt by the Ptolemies to combat undesirable innovations in marriage customs).

P.Eleph.Wagner 1 is an excerpt from a judgement[1] by Ptolemaic judges, Chrematists, given most probably in the seventh year of Ptolemy III Euergetes, i.e., 241/240 BCE.[2] Apart from the officials involved, the two Chrematists themselves and a certain Ainesidemos,[3] three persons are named: a woman, Biote, and two men, Musaios and Nikias, son of Nikanor, a man of Macedonian descent. The particulars of the case have been left out of the excerpt preserved to us; all it contains is the judgement itself, introduced by a formula of recapitulation, ἐκ πάντων οὖν τούτων | κρίνομεν (ll. 4–5), "on the basis of all this we deem ...". The two men are then condemned to hard labour with these words: "On the basis of all this, we deem that Musaios should be transported to the labour camp; and further, that Nikias, son of Nikanor, of Macedonian descent, who cannot at present be found, should also be transported thither, etc."

Making allowance for any changes to the original wording of the text brought about by the excerptor for his purposes (see n. 6), I think we can be certain from the fact that the two men are mentioned one after the other that they were not found guilty of precisely the same offence. Since Musaios is the first one to be named, he will have been the main defendant, so to speak, Nikias an accessory. The reason for Musaios' name being included in our excerpt need be nothing more meaningful than that it stood in the sentence containing the verb κρίνομεν, without which the following made no sense.

It is with Nikias, son of Nikanor, that our excerpt is primarily concerned: We are told that he had absconded (ll. 9–10: ὃς οὐκ ἔστιν ἐμφανὲς [*l.* ἐμφανής] | ἐπὶ τοῦ παρόντος); the last sentence contains an appeal for his arrest, ἀνάγειν δὲ αὐτὸν τὸν | βουλόμενον ἐπ᾽ Αἰνησίδημον (ll. 20–22 with BL XI 76). The excerpt may have been made with a view to setting in motion the search after him through the posting of public notices and the like; or conceivably, if the quarries he was condemned to labour in were in the neighbourhood of Elephantine, where the papyrus was found, for the information of the authorities there.[4]

The Chrematists clearly state what the offence was that had such dire consequences for Nikias. The Greek text of ll. 10–19 is as follows: ὅτι | ἐπεγράφη κύριος Βιότης | τοῦ πατρὸς αὐτῆς ζῶν|τος, οὐ λαβὼν πρόσταγμα | παρὰ τοῦ βασιλέως οὐδὲ | παρὰ χρηματιστῶν, | ἀλλ᾽ εἰς ταῦτα ἐπιδοὺς

[1] L. 1: γνώσεως μέρος.

[2] See for the redating of the papyrus COWEY & KALTSAS 1998 (BL XI 76); accepted by BAGNALL & DEROW 2004 on no. 128 (see further BL XII 66).

[3] The names of all three officials were misinterpreted by the editor; see BL XI 76.

[4] The relation between Elephantine, the location of the trial, and Ainesidemos' seat of office is not clear to me.

| ἑαυτὸν παρὰ τοὺς νόμους, | ‹ἐν›[5] οἷς ἐστιν πρόγραμμα | παρ᾽ ὧν χρὴ γαμεῖν. Apart from the last clause, this is relatively straightforward: "for the reason that he caused himself to be registered as guardian (κύριος) of Biote while her father is (or: was) living, without having obtained a decree from the King or from Chrematists, but rather choosing this course of action in defiance of the laws, among which is contained a proclamation, παρ᾽ ὧν χρὴ γαμεῖν."

From the manner the woman Biote is spoken of, it is fair to assume that she had already been mentioned in the part that once preceded our extract; she will thus have been somehow involved in the offence for which Musaios was on trial.[6] She may have been the accuser or a third party. It is in any case certain that the improper assumption of the role of *kyrios* by Nikias had not occurred in the course of this trial itself;[7] rather, it concerned some past transaction, in which Musaios too must have been a party.

My main concern is with the exact meaning of ll. 16–19. I find the clearest attempt at an interpretation in BAGNALL & DEROW 2004, no. 128; they translate or paraphrase ll. 17–19 with "... contrary to the laws which contain a royal proclamation concerning the requirements for marriage" and note ad loc.: "As it is not claimed that Nikias married Biote, we may suppose that the proclamation in question described as normative the assumption of the role of *kyrios* by the husband." According to their understanding, the Chrematists are making a reference to the laws concerning marriage; these, Bagnall and Derow infer, contained the provision that a married woman should enjoy the guardianship, the κυριεία, of her husband; not being married to Biote, Nikias, who had appeared as her κύριος, was in transgression of these laws. (That Nikias was not the husband of Biote is nowhere stated in the text preserved to us, but it will have been known to the court and in no way a matter of dispute.) Similarly Bärbel Kramer.[8] This interpretation goes back, at least in part, to the editor of the text, Guy Wagner, who was the first to infer from ll. 17–19 that Biote and Nikias were not married and that Nikias was thus breaking "the laws"; it is

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5 This emendation appears to me to be necessary.

6 One is, on the other hand, tempted to assume that ll. 7–8 were the first mention of Nikias, as the name of his father and his *ethnikon* might be expected to have been given only at his very first appearance in the text. However it is perfectly possible that they were inserted here for the purposes of the excerpt.

7 Women needed a κύριος in order to appear before the Chrematists, see P.Heid. VIII 415, 3 comm. (but perhaps only under special circumstances, see WOLFF 1970, 135–136 n. 42); for ἐπιγράφεσθαι κύριον in this context see P.Mert. II 59 (n. 20). But Nikias cannot have been the κύριος of Biote in the trial, since it is stated in ll. 9–10 that his current whereabouts are unknown.

8 KRAMER 1999, 222: «Nikias hat sich ohne Erlaubnis durch ein königliches Prostagma oder einen Spruch der Chrematisten als κύριος der Biote eintragen lassen, obwohl ihr Vater noch lebt und er nicht mit ihr verheiratet ist. Damit verstößt er gegen die Heiratsgesetze.»

not entirely clear to me from his comments what he thought the content of the laws was (see n. 11).[9] Adam Łukaszewicz follows Wagner.[10]

That husbands appeared as κύριοι of their wives when needed is indeed well attested in the Ptolemaic papyri and would in any case have been expected to be the norm; consequently, the marital status of Biote and Nikias was of some importance in the affair. Thus far the current interpretation appears in no way implausible. One might perhaps object that the Chrematists have chosen a remarkably oblique way of saying what they mean: not "he appeared as her κύριος, although (a) her father is still alive and (b) he is not married to her", but rather "he appeared as her κύριος, although (a) her father is still alive, (b) acting in opposition to the laws concerning marriage". More generally, and considering the ubiquity of the institution in Ptolemaic Egypt, it appears slightly surprising that the most authoritative regulation on κυριεία available was a relatively incidental reference within the marriage laws, rather than special legislation (which would also have dealt, e.g., with the category of unmarried women who had lost their father). But neither objection is fatal.

When one, however, turns back to the Greek text itself, Wagner's and his followers' interpretation appears most problematic. In παρὰ τοὺς νόμους | οἷς ἐστιν πρόγραμμα | παρ᾽ ὧν χρὴ γαμεῖν Wagner takes the last words for a relative clause referring back to νόμους: παρ᾽ ὧν (νόμων) χρὴ γαμεῖν is interpreted as "the laws, according to which one must marry".[11] Wagner implies in his commentary that one might have expected παρ᾽ οὗ χρὴ γαμεῖν, referring to the immediately preceding word πρόγραμμα (see n. 9); Łukaszewicz, who accepts Wagner's interpretation and translation, speaks of an error.[12] I see a second and far greater problem in Wagner's acceptance of παρ᾽ ὧν: I cannot see how παρὰ + genitive can in this context possibly mean

[9] In his commentary WAGNER paraphrases the case as follows: «il [Nikias] a illégalement usurpé le statut de tuteur légal d'une femme dont il n'est pas l'époux et dont le père, vivant, aurait dû avoir ce statut, sauf dérogation royale sanctionnée par une ordonnance», and notes on ll. 12–19: «Les lois sont amendées par des décrets royaux ou législatifs émanant, comme on voit, du roi lui-même ou des juges, ici, les Chrematistes. Le génitif pluriel ὧν renvoie à l'évidence aux «lois», même si le plus important est le programma, le décret législatif des juges: on ne peut être le tuteur légal d'une femme avec laquelle on n'est pas marié, tant que son père est encore en vie.» For his translation see n. 11.

[10] ŁUKASZEWICZ 2003, 440–441.

[11] His translation for ll. 16–19: "mais en s'y faisant inscrire contrairement aux lois qui comportent un règlement, en vertu desquelles il faut se marier." (It is not clear to me whether this is supposed to mean "the laws - - - according to which marriages are regulated" or, conceivably, "the laws - - - according to which one must be married [*sc*. in order to obtain the guardianship]". The elegant paraphrase by Bagnall and Derow quoted above presupposes the first interpretation.)

[12] ŁUKASZEWICZ 2003, 440: «Dans l'expression παρ᾽ ὧν χρὴ γαμεῖν, l'usage de ὧν est erroné. Au lieu de παρ᾽ὧν, on s'attendrait à παρ᾽οὗ se référant au πρόγραμμα. L'erreur implique une référence à τοὺς νόμους».

"en vertu de", "in accordance with".[13] Unless one supposes some graver error in the text,[14] Wagner's understanding of the passage must on philological grounds alone be discarded.

I believe the Greek allows—and, indeed, imposes—a different interpretation: The clause παρ᾽ ὧν χρὴ γαμεῖν need not necessarily be relative; the alternative possibility, well supported by Ptolemaic parallels, is that of an indirect interrogative clause, παρ᾽ ὧν being in this case equivalent to παρὰ τίνων, "from whom"; the question must then depend on the preceding πρόγραμμα.[15] Γαμεῖν παρά τινος means "to receive a woman in marriage from someone"; examples given in the dictionaries include Plato, *Plt*. 310c–d: Οἱ μέν που κόσμιοι τὸ σφέτερον αὐτῶν ἦθος ζητοῦσι, καὶ κατὰ δύναμιν γαμοῦσί τε παρὰ τούτων καὶ τὰς ἐκδιδομένας παρ᾽ αὐτῶν εἰς τοιούτους ἐκπέμπουσι πάλιν ("orderly [decorous, moderate] people search for their own character and as far as they are able take their wives from such people, and when they themselves have girls to find a husband for, they give them to such men,

[13] See the Greek grammars for the uses of παρά with the genitive. A search in the *TLG* for the phrases παρὰ τῶν νόμων and παρὰ τοῦ νόμου turned up no example supporting Wagner's understanding of the passage in question (all cases found fall under one or another of the categories distinguished in the grammars: combinations with λαμβάνειν, ἔχειν etc., αἰτεῖν etc.; with ἀκούειν; with εἶναι, γίγνεσθαι, ὑπάρχειν (τινί); with passive verbs; with nouns, e.g., ἡ παρὰ τῶν νόμων τιμωρία). The only instance that might be adduced is Maximos the Confessor, *Quaestiones et dubia* [ed. J.H. DECLERCK, Corpus Christianorum, Series Graeca, 10, Turnhout 1982], Qu. I 79, 1–2: Τί δήποτε ἐν μέρει λεπρὸς ἀκάθαρτός ἐστιν παρὰ τοῦ νόμου, ὁ δὲ ὁλόλεπρος ὢν καθαρός ἐστιν; according to the apparatus, however, only one of the primary codices, Z (Vaticanus Gr. 2020), has the genitive, the others (C OBLD) offering τῷ νόμῳ; the dative is used in the same phrase in Qu. 23, 3–4: ἀλλὰ καὶ τὰ ἥμερα τὰ παρὰ τῷ νόμῳ ἀκάθαρτα; and Qu. 37, 1–2: τὰ παρὰ τῷ νόμῳ ἀκάθαρτα ὄρνεά τε καὶ χερσαῖα καὶ ἔνυδρα; ibid. 10–11. For other mistakes in Z (in Qu. I 79, among others) see DECLERCK's introduction, CXX–CXXI, for his general appraisal of Z ibid. and CCLII.

[14] It is certainly not entirely correct, cf. ἐμφανές for ἐμφανής in l. 9; οἷς for ἐν οἷς (?) in l. 18 (see n. 5); and perhaps Πασιστράτου for Παυσιστράτου in l. 3, see NACHTERGAEL 1998, 116–117 (cf. BL XI 76; accepted by BAGNALL–DEROW 2004, no. 128, doubted by ŁUKASZEWICZ 2003, 439).

[15] For relative pronouns in indirect questions see MAYSER 1926, 79; 1934, 52 (e.g., γράψας, παρ᾽ οὗ κομούμεθα). For indirect questions depending on substantives see, e.g., SB XIV 12034, 6–8: [Καλ]ῶς ποιήσεις πέμψας μοι | [φάσ]ιν πόθεν δύνομαι τὴν κιθάλ[ραν] σου λαβεῖν, and the case mentioned by MAYSER 1934, 52 n. 2 (UPZ I 68, 4–5; depending on ἐπισ|τόλιον ἔχων᾽τα΄ [*l*. ἔχοντα], not on ἀπόστιλον ἐπιστόλιον; and for a somewhat comparable usage [infinitive depending on a noun] see MAYSER 1926, 317–318, 321–322); further Dio Chrys. *Or*. 49.3 (vol. II p. 94.14–15 VON ARNIM): καὶ τοῖς ἄλλοις προστάττοντες αὐτοὶ παρ᾽ ἐκείνων προστάγματα λαμβάνουσιν (for the passive) ἃ δεῖ πράττειν καὶ τίνων ἀπέχεσθαι; Dion. Hal. *Ant. Rom*. 5.52.3: ἐκάλουν τοὺς συνέδρους εἰς ἀπόφασιν γνώμης, τίνα χρὴ πολεμεῖν Ῥωμαίοις τρόπον; Simpl., *In Aristotelis Categorias commentarium* (CAG VIII, *ed*. C. KALBFLEISCH, Berlin 1907), p. 184.18–19: ἐν ᾧ καὶ μέθοδον παραδέδωκεν, πῶς δεῖ λαμβάνειν τὰ ἐξισάζοντα καὶ ἀντακολουθοῦντα (FLEET 2002, 40, translates: "In doing so he introduced a way in which we can understand things that are co-extensive and correspond"). I cannot tell whether J. Mélèze Modrzejewski's translation "a regulation (*programma*) on how to get married" (in KEENAN et al. 2014, p. 473) is partly based on a similar understanding of the syntax of our text.

too"); and Plutarch, *Quaest.conv.* IV 3.1 (666e): λέγει δὲ τοὺς ἀγομένους γυναῖκας πολλοὺς παρακαλεῖν ἐπὶ τὴν ἑστίασιν, ἵνα πολλοὶ συνειδῶσι καὶ μαρτυρῶσιν ἐλευθέροις οὖσι καὶ παρ᾽ ἐλευθέρων γαμοῦσι (= 73 A 5 Diels and Kranz; *FGrHist* III A, no. 264, F 17: "he says that men marrying invite large numbers to the wedding feast, in order that many may be well-informed witnesses that they themselves are free and are taking their wife from free people"). In these two examples—as in all others adduced in the main dictionaries[16]—the context of use is that of "taking one's wife from (among) a certain family or group"; and this is also the case with the majority of parallels a search in the *TLG* brought together. But I see no reason whatsoever why the phrase could not also be applied to "taking one's wife from a person", which is the nuance needed in our text (see in following);[17] cf. these passages from Greek literature: Aesch. *Suppl.* 227–228 (WEST): πῶς δ᾽ ἂν γαμῶν ἄκουσαν ἄκοντος πάρα / ἀγνὸς γένοιτ᾽ ἄν; "How could a man marry the unwilling daughter of an unwilling father, and not become unclean?" (tr. SOMMERSTEIN 2008) (and see FRIIS JOHANSEN and WHITTLE 1980, ad loc., p. 183); and Lib. *Decl.* 42.42 (vol. VII 423.1–3 Foerster): καὶ παρὰ τίνος ἔγημεν ἂν ὕστερον, πῶς δ᾽ ἂν παῖδας ἐνουθέτησε, τίνος δ᾽ ἂν ἐκοινώνησεν ἑορτῆς, ποίων ἀγώνων, ποίων θυσιῶν; ("and from what man would he have taken a wife afterwards, how would he have admonished his sons, in what feast would he have partaken, what games, what sacrifices?" of a youth who, having been the παιδικά of a tyrant, would return to his hometown).

Thus the lines in our papyrus can be translated as follows: "against the laws, which contain a proclamation [on the subject], from whom one ought to take a woman for a wife".

Let us now try to comprehend the exact bearing of this on the interpretation of the case: As we saw, Nikias was condemned for usurping the role of guardian of Biote in some unclear past transaction most likely involving Musaios.

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[16] See *TGL* III, s.v. γαμέω, cols. 509–510; *LSJ* s.v. I.1; *DGE* IV, s.v. I.1 («c. gen. partit. para indicar el origen de la mujer Ἀδρήστοιο δ᾽ ἔγημε θυγατρῶν *se casó con una de las hijas de Adrasto*, *Il.* 14.121, o más frec. c. giro prep. de gen. ἐκ κακοῦ ... ἔγημεν *tomó esposa de baja condición* Thgn. 189, φίλων μὲν ἂν γήμαιμ᾽ ἀπ᾽ ἀνδρῶν E. *Andr.* 975, γαμεῖν ... ἐκ γενναίων χρεών E. *Andr.* 1279, παρ᾽ ἐλευθέρων γαμοῦσι *se casan con mujeres de condición libre* Plu. 2.666e, cf. Pl. *Plt.* 310c, ἐκ μειόνων γαμεῖν X. *Hier.* 1.28»). Cf. also Isocr., 19.9: Μετὰ δὲ ταῦτ᾽ ἔγημεν ἐκ Σερίφου παρ᾽ ἀνθρώπων πολὺ πλείονος ἀξίων ἢ κατὰ τὴν αὑτῶν πόλιν, "after this he took a wife from Seriphos, of a family of far greater worth than one would expect in their city".

[17] I understand γαμεῖν παρά τινος as synonymous with λαμβάνειν γυναῖκα παρά τινος; cf. Isocr., 19.46: Καίτοι τίσιν ἂν θᾶττον τὴν αὑτοῦ θυγατέρ᾽ ἐξέδωκεν ἢ τούτοις παρ᾽ ὥνπερ αὐτὸς λαμβάνειν ἠξίωσεν; and from the papyri P.Eleph. 1, 2–4 (with BL V 27): Λαμβάνει Ἡρακλείδης <Τημνίτης> | Δημητρίαν Κώιαν γυναῖκα γνησίαν παρὰ τοῦ πατρὸς Λεπτίνου Κώιου καὶ τῆς μητρὸς Φιλωτίδος ἐλεύθερος | ἐλευθέραν («[this] represents the *ekdosis* as seen from the husband's side», WOLFF 1939, 16).

In doing this he broke a law concerning, according to our interpretation, the people entitled to give a woman in marriage. There is only one transaction in which the false κύριος of a woman would at the same time be guilty of disobeying such a provision: her marriage.

I thus reconstruct the case as follows: Musaios and Biote wished to marry; to effect this, they had Nikias appear as the bride's κύριος. Since her father was alive and no legitimate reasons for his exclusion from this role existed (such as would have allowed Nikias to obtain the requisite decree, cf. ll. 13–15), it is a fair inference that he was actively opposed to the marriage. Nikias may very well have been a relative of the bride, but certainly not one whom the law allowed to take precedence of her father in this case. It may have been the father who asked for his unwanted son-in-law and the false guardian of his daughter to be punished for their actions. It is then perfectly understandable that we hear nothing of the fate of Biote herself: she will have had to go back to her father's house, to mend her—presumably—broken heart as best she could.

The next point to be elucidated is the concrete way Nikias "appeared" as the guardian of Biote, i.e., the exact meaning of the phrase ἐπεγράφη κύριος Βιότης. As with other compounds of γράφω, we find the verb ἐπιγράφω used in our documentary papyri both in its original sense of "writing down upon" and in a number of derived technical significances, denoting in each case a practical administrative outcome of such "writing down": for example, ἐπιγράφειν τινὶ ζημίαν means "to impose a fine on someone", since this was brought about by some sort of written notice or command. It is in many cases unclear whether we have the original or a derived meaning. Now, one finds the combination ἐπιγράφεσθαι κύριον often translated with "to be appointed guardian", i.e., in a derived sense. I think that in most instances the simpler interpretation "to be written in / recorded as guardian" is equally adequate and perhaps to be preferred; this is certainly the case in the not very numerous attestations from Ptolemaic times.[18] In the text studied here it would

[18] I thus take back what I wrote in P.Heid. VIII, p. 103. The *terminus technicus* for "appointing a guardian" apparently was διδόναι κύριον, see P.Enteux. 22, 7, and contrast the use of ἐπιγράφεσθαι in the same text, l. 4 (and the equivalent phrase in l. 5–6: [μὴ ἐχούσης] μου κύριον | μεθ' οὗ τὰς περὶ τούτων οἰκονομίας θήσομαι; see Guéraud on l. 4). Cf., too, the very similar use of ἐπιγράφεσθαι in cases where there is no question of formal appointment, that of contract witnesses (μάρτυς: P.Heid. VIII 414, 5–6, and the parallels listed in the comm.; BGU XIV 2367, 14–16 with BL XII 25), sureties (ἔγγυος: P.Col. IV 83, 3–4; P.Ryl. IV 588, 16–17 with BL XII 169), guarantors in a sale (βεβαιωτής – βεβαιώτρια: P.Gen.^{2} I 21, 6–7). (Also perhaps of identity witnesses [γνωστήρ: SB VI 8974, 57–58]; the exact form the γνωστεία mentioned in P.Cair.Zen. I 59019, 8–10 would have taken is unclear—some sort of written declaration?) In some of these attestations the concrete meaning "written in the contract" is emphasized by the addition of ἐπὶ τῆς συγγραφῆς and the like. A further example of ἐπιγράφεσθαι μάρτυρα is perhaps to be found in P.Lips. inv. 1452 recto, published by Scholl 2006, ll. 3–8: Διονύσιον, ὃς | [- - -]αὐτὸν ἀπογράφεσθαι Θρᾷκα | [- - -]

in any case be false to translate "he was appointed", since it is expressly stated that Nikias had bypassed the two appointing authorities, the King[19] and the Chrematists; it is obvious that what is meant is that he "was recorded, written in" as Biote's guardian, the most likely place for him to have been thus recorded being, as in most parallels for this use of the verb, a contract, the marriage contract of Musaios and Biote.[20]

There were in Ptolemaic times two types of Greek marriage contracts: One of them began with a formal declaration of the act of the *ekdosis*, the "handing over" of the bride to her new husband; the other, far better attested, took the form of a receipt for the dowry directed by the groom to the person who was giving it.[21] The bride was not always an active partner in such contracts: the ἔκδοσις could (should, really) be performed (or, more precisely: recorded in the contract as having been performed) by her father or another relative;[22] and the dowry could be (recorded in the contract as having been) paid by the father, the mother or, again, another relative.[23] In other cases—obviously

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υς κυνηγῶν σύνταγμα καθὰ δὲ | [- - -]γραφῆς ἐπεγράφη (ἐπεγράφης in SCHOLL 2006 is a typo) τῶν Μενελάου | [- - -]ἀπολογήσατο ἐπιγεγράφθαι | [- - - σ]υγγραφῆς τῆς τεθείσης etc. Setting aside all other textual problems, which I intend to treat separately, I note that ll. 7–8 could be supplemented with ἐπιγεγράφθαι | [μάρτυς ἐπὶ τῆς σ]υγγραφῆς, cf. P.Heid. VIII 414, 5–6 comm. (pp. 102–103), ll. 5–6 with καθὰ δὲ | [ἐπὶ τῆς συγ]γραφῆς ἐπεγράφη, cf. HAGEDORN & KRAMER 2010, 224, for the related phrase καθὰ συνήλλαξε and variants. However we are to understand the remarkable variation between ἀπογράφεσθαι in l. 4 and ἐπιγράφεσθαι, it is clear that the second verb is here being used in the concrete sense.

[19] Directly (?) or through the *strategos*, as in P.Enteux. 22; cf. WOLFF 1970, 76–77 with n. 48 and 142 with n. 69.

[20] The recording of the κύριος in a contract is meant in P.Enteux. 49, 7 and P.Tebt. III.1 815, fr. 4 recto I 28–29. Less clear-cut is the case of P.Mert. II 59, 7–10 (with BL IV 49): [ἀναγ]ορευθείσης κρίσεως Ἀσκλάπωνος τοῦ Διζαπ[ό]ρεως πρὸς Ἀντιγόναν Ἀλκέτου, | [κατ]αστάντες ἐπιγραφέντος τῆς Ἀντιγόνας κυρίου Ἀλκέτου τοῦ Μενάνδρου, | [πρὸ] τοῦ δικαιολογεῖσθαι ἔδωκαν ἡμῖν συγχώρησιν, ἧς ἐστιν ἀντίγραφον τὸ ὑπο|[τετ]αγμένον: Alketas does indeed appear as his daughter's guardian in the συγχώρησις appended (ll. 11–12), but l. 8 seems to refer not to this "recording", but to one that took place immediately after the appearance of the two parties in court, before the presentation of the document. Perhaps what is meant is that his name was written down in the internal records or log of the court (in addition to those of Asklapon and Antigona, who were already known to the court before their appearance on that day). (The συγχώρησις was most probably drawn up in court, but presumably before the beginning of the trial. Alketas' subscription in l. 31 [Ἀλκέτας ἐπι[γέγ]ραμμαι κύριος Ἀντιγόνας συγχωρούσης κατὰ τὰ προγεγραμμένα] could refer to either manifestation of his role as guardian [for the possibility that this and the other subscriptions record statements by the parties before the judges see WOLFF 1978, 94 n. 63].) We have no reason to assume anything similar in connection with marriage.

[21] See YIFTACH-FIRANKO 2003, 14–15 (also on the material from Roman Egypt) and 22–23.

[22] P.Eleph. 1 (the father and the mother; see n. 17). As has often been pointed out, the piece is too early to be reckoned a true part of Ptolemaic *Urkundenwesen*; still, it is important as a remnant of the legal traditions that shaped it. See MODRZEJEWSKI 1983, 53–56 (55 n. 75, on the participation of the girl's mother; see also, more generally, 68).

[23] Cf., e.g., P.Hib. II 208 (probably; the contracting party Ebruzelmis must be a relative of the bride,

depending on the age of the bride and perhaps other societal factors—she did have active participation: Either in being the one paying her own dowry (thus in dowry receipts); or, curiously enough, in performing her *ekdosis* herself in *ekdosis*-documents.[24] In both these cases, she of course needed a κύριος, as she did for any other transaction—e.g., a loan, a lease of land, etc. Since Nikias is explicitly called the recorded κύριος of Biote, it follows that her marriage contract was of the latter form, with Musaios and herself as the parties; its precise type, *ekdosis* or dowry receipt, cannot be determined.

Having arrived at this (to my mind plausible, if highly hypothetical) reconstruction of the concrete case of Musaios, Biote and Nikias, we may now proceed to a closer examination of the regulation invoked by the Chrematists in condemning the last-named man. Although its contents are not made explicit in P.Eleph.Wagner 1, its use in the context renders it practically certain that it sanctioned the traditional rights of the father; after him, other relatives will have been named, or, I suppose, the legal guardian of an orphan. A very remarkable and, I think, significant aspect of the affair is to be seen in the typology of this legislative text: it is expressly stated to have the form of a πρόγραμμα, a proclamation to the public. In this official judicial context the word must have its precise technical meaning: That of a distinct text type in use in the Ptolemaic administration, written with a primary view to publication through public posting and distinguished by the lack of a prescript and, in Ulrich Wilcken's often quoted phrase, «[einen] lapidaren Polizeistil» (the jussive infinitive being a favourite syntax).[25] Such proclamations could be is-

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see the introduction); CPR XVIII 6 (the father); XVIII 12 (the mother). P.Tebt. III.1 815, Fr. 4 recto I 2–11 (the mother); BGU VI 1283 (the father). In these cases the bride is mostly referred to by name only, without the other elements of the *Nomenklaturregel* (father's name and *ethnikon*), which would have been obligatory otherwise; in the extracts in CPR XVIII no physical description (signalement) is added for her under the contract (both aspects noted by B. Kramer, CPR XVIII, p. 81). The bride in P.Tebt. III.1 815, on the other hand, was present and is described on verso, ll. 4–6; could this have anything to do with the strange fact that her mother was without a κύριος at the time the abstract was taken down, a blank space being left in l. 4 of the recto where the guardian's name should have stood? Was the agreement left incomplete?

[24] Dowry receipts made out directly to the bride: CPR XVIII 8; 13; 17; 20 (see B. Kramer's introduction, 182–183); 28 (here with the bride's father as her κύριος) (description of the bride appended, contrast n. 23); very probably P.Freib. III 26, 29 and 31; P.Tebt. I 104. Self-*ekdosis*: P.Giss. 2 I 8–11: Ἐξέδοτο ἑαυτὴν Ὀλυ[μ]πιὰς Διονυσίου | Μα[κ]έτα μετὰ κυρίου τοῦ ἑαυτῆς πατρὸς Διονυσίου Μακεδόνος τῆς δευτέρας ἱππαρχίας ἑκατονταρούρου Ἀνταίωι Ἀθηναίωι τῶν Κινέου τῆς δευ|τέρ[α]ς ἱππαρχίας ἑκατοντ[α]ρούρωι [εἶναι] γυναῖκα γαμετήν (see the introduction by E. Kornemann, further MODRZEJEWSKI 1983, 57–60, and his text quoted in n. 41 with new material [cf. the addenda to the reprint of MODRZEJEWSKI 1983, 5]; YIFTACH-FIRANKO 2003, 43–44).

[25] WILCKEN 1921, 130–131. (For the lack of the prescript cf. BIKERMANN 1946–1948, 68–69 n. 7 [= BIKERMANN 1980, 87 n. 9], with an example from Athens of such a proclamation with prescript, IG II^2 1362.) WILCKEN insisted that the πρόγραμμα is a distinct text type; see WILCKEN 1921, 129 (also, e.g., UPZ I, p. 458; see, too, his remarks on BGU VI 1212 in BGU VI, p. 192). Others

sued at all levels of administrative hierarchy, including the very highest one in Alexandria; this must of course have been the case with our πρόγραμμα that regulated a matter of Pan-Egyptian concern.[26]

Now, in the third century, from which our papyrus comes, Ptolemaic legislation was usually codified in διαγράμματα, more or less extensive and systematic collections of ordinances on fundamental aspects of life in the Kingdom;[27] this is the text type we should expect to have been used if our regulation παρ᾽ ὧν χρὴ γαμεῖν had been part of a whole series touching on various aspects of marriage, possibly divorce, inheritance, etc.;[28] or concerning the proper form of contracts—in this case, marriage contracts; we do possess

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have correctly stressed that the main unifying feature of all Ptolemaic προγράμματα is mode of publication rather than content, which can vary from a simple invitation to an actual ordinance (see above); see SCHÄFER 1933, 612–613; LENGER 1944, 115–116, and C.Ord.Ptol., p. XXI; but this does not, I think, entail that it was not a recognizable text type in each context it was used in. I thus do not agree with WÖRRLE 2010, 372 with n. 59, if he actually means that any sort of legislative text could be termed a πρόγραμμα when made public through posting; certainly not in a technical context such as ours. (A case of synonymous use of πρόγραμμα and πρόσταγμα does occur in the related declarations P.Hels. 15, 8–9 and P.Hels. 11, 5–6 [but I am not sure of the reading here; πρόγραμμα seems to me equally possible. It could certainly be that a simple notification by the nome authorities rather than a royal command is meant; but our knowledge of the Ptolemaic *Deklarationswesen*, on which see now ARMONI 2012, 205–218 and 226–227, is still too scant to exclude the second possibility].) For the usage in Roman times see now STROPPA 2004; here we do find the word used interchangeably with other terms, cf. STROPPA 2004, 178–185 (but also 196–197), and WILCKEN 1921, 132–133 (and cf. the very interesting surmise of BIKERMAN 1946–1948, 83 [= BICKERMAN 1980, 102], that Flavius Josephus confounds Hellenistic [Seleucid] with Imperial usage). Speaking of royal proclamations WILCKEN 1921, 130–131, further identified as a basic characteristic their being sent to officials with the order to publish. I finally note the interesting observation of WILHELM 1909, 181, that προγράφειν and προγραφή can be used to denote the written pendant to προκηρύττειν and προκήρυξις.

[26] Two προγράμματα clearly emanating from the King and appended to royal ἐντολαί are contained in P.Rev. col. XXXVI (= C.Ord.Ptol. 17) and XXXVII (= C.Ord.Ptol. 18); cf. M.-Th. LENGER, C.Ord.Ptol., p. XXI, and already LENGER 1944, 115–116 and 141–142. The proclamation in P.Tebt. III.1 707 could be a response either to a local Arsinoite situation or, just possibly, to a nationwide one; if the latter, it must emanate from Alexandria (it was not absolutely necessary to state this in the cover letter). I further note that the text of the wanted notice UPZ I 121 = C.Ptol. Sklav. I 81 (certainly a πρόγραμμα, though not expressly termed one) was sent on to the Chora from Alexandria, where the theft and the escape of the slaves sought had occurred (see Wilcken's introduction, 568); and yet another possibility is that of a proclamation of local application being published by nome officials on the orders of the administration in Alexandria; cf. P.Ryl. IV 572, 65–73 with BGU VI 1214, 22–27; P.Tebt. I 27, 70–75; and UPZ I 106–108, where the King and Queen on a visit to Memphis authorize among other things a petitioner's wish to have the local authorities set up a proclamation before his house forbidding forced entry (see Wilcken's introduction to UPZ I 106–109 and to no. 108 in particular). Only the first three cases mentioned are good parallels for ours.

[27] See P.Heid. VIII, pp. 34–35. On the chronological distribution see MODRZEJEWSKI 1974, 371–372 (= MÉLÈZE MODRZEJEWSKI 2011, 50–52); cf. *ibid*., 373–376 (= MÉLÈZE MODRZEJEWSKI 2011, 52–57), for the areas covered.

[28] But note H.J. WOLFF's doubts as to the existence of such legislation in the Ptolemaic kingdom; see WOLFF 2002, 38–39, with references in n. 10; and cf. here, n. 44.

a fragment of just such a normative text (BGU XIV 2367: on loan contracts), in all probability a *diagramma*.[29]

Instead, our regulation was promulgated as a πρόγραμμα—a text type that in Ptolemaic times was, to judge from the not very numerous surviving examples[30] and references in other papyri, highly specific, dedicated to one rather than a multitude of subjects. Its main purpose was quick and thorough dissemination of information, aimed at the general public or a special group or even an individual who could not otherwise be reached, as in the case of notifications for the appearance of accused persons to be tried.[31] Sometimes it contained a prohibition, especially in police and related matters;[32] at other times it requested information (and active cooperation) from the public, so in the case of wanted notices for escaped slaves,[33] or invited expressions of interest, as with proclamations of auctions[34] or of openings for positions in the Police.[35] In other cases, more relevant for our purposes, the form was used to apprise the public of the introduction of a new administrative, fiscal or other measure, short- or longer-term, and, if needed, to enjoin compliance with it. So, for example, in connection with the ἀπόμοιρα tax,[36] a new tariff for Egyptian contracts,[37] the set price for myrrh.[38] (Note further the—as far as I can see, still unpublished—Berlin text P.Berol. inv. 13863 «über Liturgie», mentioned by SCHÄFER 1933, p. 612.) Most προγράμματα served immediate and transient practical needs; it is only with the handful of cases where the measure promulgated was to be of longer effect[39] (or could be used as

[29] See P.Heid. VIII, pp. 91–92.

[30] But I have not searched exhaustively for such texts.

[31] E.g., SB V 7609 (actual text of such a πρόγραμμα); BGU VIII 1774, 12–15, etc. See SCHÄFER 1933, 611–617.

[32] P.Tebt. I 27, 70–75 (see Ch. Armoni and K. Maresch, P.Köln XI, pp. 122–123); P.Tebt. III.1 707, 6–14; UPZ I 106–108 (see Wilcken, UPZ I, p. 458).

[33] See C.Ptol.Sklav. I 71 (= PSI VI 637), 5–6 [?] and C.Ptol.Sklav. I 82 (= SB VI 9532), 10–12; for an actual example (without the term) C.Ptol.Sklav. I 81 (= UPZ I 121).

[34] See ARMONI 2012, 107–119 and 170.

[35] SB XIV 11860, 10–12, cf. P.Genova III 101–102, with ἔκθεμα used instead of πρόγραμμα.

[36] P.Rev. col. XXXVI; and cf. col. XXXVII.

[37] BGU VI 1214, 22–27; cf. the related text P.Ryl. IV 572.

[38] P.Tebt. I 35, 15–19.

[39] P.Rev. col. XXXVI contains, apart from specific instructions, a more general order about the payment of the ἀπόμοιρα in ll. 18–19. The proclamation mentioned in BGU VI 1214 is obviously to apply till further notice. The prohibition in UPZ I 106–108 (see nn. 26 and 32) was of course meant to protect the petitioner from all future infractions, but it was of extremely limited scope. Cf. the text discussed by BIKERMAN 1946–1948 (= BICKERMAN 1980), a prohibition meant to be permanent, with a fine for violations.

precedent)[40] that the reference in our papyrus can be compared. But there is no perfect parallel; I have not succeeded in finding another πρόγραμμα regulating a matter of private law.

On the basis of all this, we may thus characterize the regulation cited by the Chrematists: It was not part of a comprehensive legislative text on marriage, but concerned (mainly or exclusively) a very specific point, the ἔκδοσις of women; it was promulgated in a form that guaranteed quick and wide dissemination and one that was not the norm in such matters. It seems, therefore, that the measure in its particular form was not a part of the early Ptolemies' regular legislative activity, but rather a response by the administration to some concrete situation or occasion, which was felt to require immediate attention or rectification. On the other hand, we have seen that the proclamation basically affirmed or reaffirmed the father's right to perform the ἔκδοσις of his daughter—what situation could this have been a response to?

Now, scholars have often emphasized the considerable freedom and independence of women in Ptolemaic Egypt—the obvious reference point being Classical and very early Hellenistic Athens, for which we possess valuable information in Menander's comedies (the poet had only been fifty years dead when our text was written). The possibility, already mentioned above, of women giving themselves in marriage, self-*ekdosis*, attested, it is true, only once in our Ptolemaic material, but also in a papyrus of Roman times (P.Oxy. XLIX 3500), strongly suggesting continuity, is singled out, e.g., by J. Mélèze Modrzejewski as a marked instance of this changed position;[41] but other aspects of marriage could also be cited; the assumption by the woman of the role of giver of her own dowry (in dowry receipts) is surely another manifestation of the same evolution.[42] Such innovations are ultimately connected with the change in sociological conditions from the ancient *polis* to the kingdom of the Ptolemies.[43]

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[40] So, I suppose, in the case of P.Tebt. III.1 707, 6–14.

[41] Mélèze Modrzejewski 2011, 373: «En revanche, on peut fort bien considérer comme étant "d'avant-garde" les femmes qui accomplissent seules l'acte de leur *ekdosis*, c'est-à-dire qui se donnent elles-mêmes en mariage. Dans la Grèce classique, une telle "auto-*ekdosis*" de la femme s'associait à la barbarie ou à la prostitution. C'est ainsi qu'Hérodote évoque le cas des filles lydiennes qui faisaient commerce de leurs charmes pour se constituer un trousseau, puis se donnaient elles-mêmes en mariage. Dans l'Athènes de Ménandre, la femme qui se donne elle-même en mariage, comme Glycéra dans *La fille aux cheveux coupés*, est une courtisane; son statut est celui d'une concubine (*pallake*). Au contraire, dans le monde hellénistique, la femme peut parfaitement effectuer elle-même son *ekdosis* en vue d'une union légitime. Le fait est attesté pour l'Égypte par deux documents papyrologiques; un document de Doura-Europos et le roman de *Chairéas et Callirhoé* de Chariton d'Aphrodisias illustrent son extension au-delà du cadre égyptien.»

[42] Noted by B. Kramer, CPR XVIII, p. 53.

[43] See, e.g., Modrzejewski 1983, 53, 67–68 (on the disintegration of traditional *ekdosis*), 70–71; Wolff 2002, 37. More generally Rowlandson 1998, 162–164.

It is, I believe, against this background that the promulgation of the πρόγραμμα cited in P.Eleph.Wagner 1 can best be understood: namely, as an attempt by the Ptolemaic state to stem these developments and to shore up the traditional institution of marriage by ἔκδοσις by the father or other male relative (and, by implication, the patriarchal order). That no explicit regulation on the matter had existed up to that point is perfectly understandable: For an earlier generation, it may still have been self-evident who was supposed to give a girl in marriage; in any relevant mention in legislative texts, the authors may have deemed a simple ὁ ἐκδιδούς sufficient, without further specification.[44]

The concrete occasion for this intervention of the authorities may have been provided by an earlier case of the same sort as that which led in 241/240 BCE to the condemnation of Musaios and Nikias—the complaint of another circumvented father? Or perhaps, less dramatically, a query by a *syngraphai*-scribe wondering whether he was doing the right thing?[45] Be that as it may, the fact that the implementation of the regulation primarily rested with such scribes may serve in part to explain the choice of its mode of promulgation (as opposed, this time, to a πρόσταγμα): The drawing up of Greek contracts was in that period farmed out by the state in the framework of the monopoly system (certainly to the μονογράφοι for simple dowry receipts, and possibly to the πραγματευόμενοι τὰς γαμικὰς συγγραφάς for *ekdosis*-agreements);[46] thus the administration may have decided to publicize the new measure within this system and use its facilities—public announcements played a major role in its operation. Our πρόγραμμα may, incidentally, have been formulated as a prohibition: "No one may give a woman in marriage except her father, ...".[47]

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[44] Because of this possibility, the case cannot confidently be used to support Wolff's doubts as to the existence of such legislation under the Ptolemies (n. 28).

[45] The occasion for the measure need of course not have been (and most probably was not) stated in the proclamation itself; for a (royal? see n. 26) πρόγραμμα stating the motivation for the measure in the typical form "whereas we are informed that ...", see P.Tebt. III.1 707, 7–11, and for royal commands with a similar rationale see, e.g., C.Ord.Ptol. 24 (= P.Hal. 1, 166–185); C.Ord.Ptol. 53 (= P.Tebt. I 5), 85–92.

[46] If these agreements are to be equated with the συγγραφαὶ συνοικισίου, on which more elsewhere; see n. 49. That the πραγματευόμενοι τὰς γαμικὰς συγγραφάς (cf. YIFTACH-FIRANKO 2003, 67 n. 59) already existed in 235/234 BCE is now suggested by P.Poethke 8, 76 (= *APF* 57, 2011, p. 42, l. 137); their precise nature (monopoly farmers or officials) unfortunately remains a matter of doubt.

[47] I had originally thought that the πρόγραμμα the regulation was promulgated in might have been issued by the fiscal administration and have concerned the contact of the public with the πραγματευόμενοι τὰς γαμικὰς συγγραφάς (possibly at their first introduction?). But I find it difficult to accept that a proclamation of that nature could have contained details of the sort implied here.

It remains a matter of doubt which development the regulation was designed to combat. One way to observe the letter but not the true spirit of the institution of ἔκδοσις was, as already mentioned, self-*ekdosis* by the bride herself; our only Ptolemaic example for this dates to the year 173 BCE (P.Giss. 2). Because self-*ekdosis* of virtuous women is such a departure from the customs of Classical times, it has in the past been doubted whether it could already have been practised in the third century;[48] our case could be an indication that it indeed was. It is to such a practice that the formulation παρ᾽ ὧν χρὴ γαμεῖν can most naturally be referred: a man should take his wife from the hands of her father or other relative, not have her give herself to him. Another, even more radical way to flout convention was to forgo (or defer) the process of ἔκδοσις altogether and begin the joint life with only the dowry receipt to protect the wife's interests. According to one (not uncontested)[49] theory, this was the stage reached around the beginning of the second century BCE, with «extended» dowry receipts that already contained regulations for the common life. Could people already have been doing this about the middle of the third century BCE?[50] In this case the Chrematists (or the proclamation itself) would be using the phrase "from whom one ought to take a wife" more loosely, to denote not just the proper person to perform the ἔκδοσις, but the proper way to perform (or, more precisely: to record) a marriage altogether. In both cases we are constrained to admit that developments that we thought belonged to the beginning of the second century were already present much earlier; we are once more made conscious of the paucity of our material for Ptolemaic marriage and divorce and of the consequent uncertainty of any attempt to sketch an evolution. I suppose there are other possibilities, but I can think of nothing particularly attractive (it is, e.g., hardly likely that strange men would suddenly feel the urge to provide dowries for girls to whom they were not related, so that the state should wish to intervene. A more interesting possibility is the right of the mother to perform the ἔκδοσις, a practice current in Ptolemaic and Roman Egypt;[51] but it seems to me doubtful that there could be very serious objections to this custom).

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[48] WOLFF 1939, 21 n. 67.

[49] The theory is that of WOLFF 1939, 7–34; for criticism and a divergent interpretation of the evidence see now YIFTACH-FIRANKO 2003, 55–72. I intend to treat the matter at length in the publication of the dowry receipt P.Heid. inv. G 705 + 726.

[50] But see already WOLFF 1939, 21 (on BGU VI 1283 from 216/215 BCE) and 27 («During the second century B.C. at the latest the evolution reached the point where it was no longer generally believed that *ekdosis* was a necessary condition of lawful marriage. - - - Yet if I am right, the change had really happened some generations earlier, and, potentially at least, it was even inherent in the framework of the Greek family law in the Egyptian Chora from the very beginning»; emphases mine).

[51] See n. 22 and YIFTACH-FIRANKO 2003, 43–44.

A final question that must remain unanswered concerns the exact relation of the regulation cited to the case tried in P.Eleph.Wagner 1: Is Nikias guilty because he appeared as the κύριος of Biote in a self-*ekdosis* document (see above), whereas self-*ekdosis* runs counter to the πρόγραμμα? Or is he guilty because in appearing as her κύριος in her marriage contract he had in the eyes of the Chrematists acted as the ἐκδιδούς, a role reserved for others by the proclamation? And was there, after all, no specific legislation penalizing the usurpation of the κυριεία of a woman?

If the reconstruction offered above, according to which the Ptolemies at some point before 241/240 through their proclamation and again in that year through the conviction of Musaios and Nikias were trying to reverse the decline of traditional marriage, is correct, it remains to be noted that the attempt failed utterly: both self-*ekdosis* and dowry receipts as binding marriage contracts (including ones where the bride was herself paying the dowry, thus comparable to self-*ekdosis*) survived into the second century and onward. One wonders whether Musaios, Biote and Nikias lived to see the change.

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