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John F. Oates

THE FORMULAE OF THE PETRIE WILLS

The new edition of the wills among the Petrie papyri by Willy Clarysse in *P. Petr.*² I offers an opportunity to examine some aspects of the Greek community in the Fayum during the third century B.C.¹ This paper will study the formulaic elements and the structure of the wills in so far as they are preserved in these documents. This examination can give us some insight into the nature of the Greek settlers and their community and how they developed institutionally from the polis culture from which they came. This paper will then analyse the eight elements which occur — or can occur — in each will; it will not deal with the substance or content of what is being bequeathed which I leave to a future study. I offer this paper in memory of Zbigniew Borkowski, a firm adherent of the “amicitia papyrologorum” and in respect for his substantial contributions to the scholarship of our discipline.

There are eight elements which are, or can be, included in each will and which might be described as formulaic. I list them as follows. The first and last two I will discuss first; nos. 2-6 are then presented in a table and these, in turn, I will discuss following the presentation of the table.²

1. The date by the official prescript, which includes the regnal year and the holders of priesthoods of the royal cult.

¹ *The Petrie Papyri*, Second edition. Volume I, ed. Willy CLARYSSE, “Collectanea Hellenistica” II. Koninklijke Academie voor Wetenschappen, Letteren en Schone Kunsten van België. Brussels, 1992. See also my review in *BASP* 29 (1992) 191-8. The only extensive study of the wills is that of Hans KRELLER, *Erbrechtliche Untersuchungen auf Grund der gräko-ägyptischen Papyrus-urkunden*. Leipzig 1919. Its narrow juridical analysis serves mainly to show how far the Petrie wills fall below the standards of will making in Roman Law.

² There is one further will of the third century, *P. Lond.* VII 2015 of 241 B.C. drawn up in Memphis. It contains the royal preamble and undoubtedly the first three formulae as far as *καταλείπω*. It breaks off with the words: [καταλείπω τὸ μὲν κληρον.

2. The introduction of the will with the phrase: *τάδε διέθετο νοῶν καὶ φρο-
νῶν.*
3. The wish to manage the testator's property himself as long as he remains healthy: *εἴη μέμ μοι ὑγιαίνουσι αὐτὸν τὰ αὐτοῦ διοικεῖν.*
4. The bequest upon death: *ἐὰν δέ τι ἀνθρώπινον πάσχω, καταλείπω τὰ ὑπάρχοντά μοι πάντα.* Πάντα is frequently replaced or added to, as we will see in the table below.
5. The statement that the testator owes nothing: *ὀφείλω οὐθενὶ οὐθέν.* These words do not occur often.
6. The statement that the testator leaves nothing to anyone else: *ἄλλωι οὐθενὶ οὐθέν καταλείπω.*
7. The appointment of the king and queen and their children as executors, *ἐπίτροποι*, of the will. There is one exception only, in the will in no. 18.
8. The list of six witnesses with age and description.

Discussion of no. 1, 7 and 8

No. 1. The official prescript to date and introduce documents is found at the head of all contracts. It is, of course, issued from the royal chancery in Alexandria and is uniform each year. In its invocation of the regnal year, the priest of Alexander and the deified Ptolemies, and the kanephoros of Arsinoe Philadelphos, it imparts a tone of awful solemnity and heavy officialdom to each document that it introduces. This document, it says, is an official act of the state.

No. 7. The appointment of the King and Queen and their descendants as *ἐπίτροποι* is of course a formality and no one expected the royal house to actively manage the posthumous affairs of these testators. Nonetheless the Ptolemies were the law and the only ultimate sanction for the efficacy of the wishes of these testators. The elaborate listing of witnesses and the filing of these copies in some sort of archive in Krokodilopolis, the metropolis of the Arsinoite nome, attest the insecure feelings of these Greeks that their dispositions would be carried out after they died.

No. 8. Each will was witnessed by six male members of the Greek community. Each is given his full official identification, name, patronymic (if not a klerouch), ethnic, and occupation or status. Age and identifying characteristics are given for each witness. I would guess that the prime

function of listing the witnesses is to add gravity and weight to the will. All would be drawn from the Greek community of the Fayum and may or may not have been acquaintances or friends of the testator, but men die and move and it would be always chancy if any would be available at the proving of the will.

We might note that the descriptions are not really definitive. They describe physical appearance and marks that would be visible from neck up; it is doubtful if anyone could be specifically identified from them or from the ages given. It is worthy of note that witnesses tend to be younger on the average than the testator; the hope was that they would outlive him.

The problem of witnesses in the Athenian inheritance cases that we possess in the speeches of Demosthenes and Isaeus suggests that they would be thin support overall. Nonetheless in connection with recourse to royal justice and the existence of this copy in an archive, the listing of the witnesses could give the testator greater hope of his wishes being fulfilled than otherwise.

Table

In this table, the first column is the reference to the location of the will by papyrus number, column if germane, and line numbers. The other columns represent the occurrence or not of the phrase at the head of the column, nos. 2-6 in the tabulation above. X indicates the phrase occurs; "lost" that the papyrus has broken off or is otherwise missing. In the fourth column I have tried to indicate the nature of the difference from the formula cited as the norm in the heading. The discussion follows phrase by phrase.

Will	τάδε διέθετο νοῶν καὶ φρονῶν	εἴη μέμ μοι ὑγιαίνουσι αὐτὸν τὰ αὐτοῦ διοικεῖν	ἐὰν δέ τι ἀνθρώπων πᾶσχω, καταλείπω τὰ ὑπάρχοντά μοι πάντα	ὀφείλω οὐδενὶ οὐδέν	ἄλλωι οὐδενὶ καταλείπω
1.2.37-68 Will of Maron	x	x	leaves sanctuary to two women: τὸ ὑπάρ- χων μοι ἱερόν	not included	not included
3.1.9-37 Will of Dion	x	x	leaves what they have to his wife and sons; τὰ λοιπὰ for his tomb. Frees female slave and her child by him if they remain with him	not included	not included
3.1.38-3.2.63 Will of Menippos	x	x	καταλείπω Σεμέλην ἐλευθέραν καὶ τὰ παι- δία if they remain	not included	not included
3.2.64-95 Will of Demetrios	x	x	Complicated and fragmentary. Wife, stath- mos, armor, and a manumission are men- tioned but not enough is preserved to sort out the particulars.	not included	not included
4.1-13 Will of ----	x	x	καὶ ὅσα ἂν ἐπικτήσω[μαι]	not included	x
6.2.28-3.47 Will of Meleager	x	x	καὶ ὅσα ὀφείλουσίν τινές μοι	not included	not included
7.1-14 Will of Char--	x	x	x	x	x
9.8-19 Will of ----	x	x	[x] and a manumission clause may follow at the end after the next two clauses	x	x
11.1-15 Will of ---des	x	x	x	x	x
13.1-24 Will of Peisias	x	x	Property is split between son of previous marriage and current wife. Lengthy provi- sions about dowry.	papyrus breaks off	papyrus breaks off
14.1-27 Will of Philon	x	x	and a debt owed to him by Apollonius also called Jonathas.	not included	x

Will	τάδε διέθετο νοῶν καὶ φρονῶν	εἴη μέμ μοι ὑγαιίνοντι αὐτὸν τὰ αὐτοῦ διοικεῖν	εἰάν δέ τι ἀνθρῶπινον πάσχω, καταλείπω τὰ ὑπάρχοντά μοι πάντα καὶ τὸν σταθμὸν	ὀφείλω οὐθεὶ οὐθέν	ἄλλοι οὐθεὶ οὐθεν καταλείπω
16.1.12-40 Will of Antipatros	x	x	καὶ τὸν σταθμὸν	not included	x
16.1.41-2.66 Will of Ptolemaios	x	x	x	not included	not included
16.2.67-3.94 Will of Kalas	x	x	καὶ ὃν ἔχω ἐγ βασιλικοῦ [στραβιμὸν]	not included	not included
16.3.96-127 Will of Ammonios	x	x	ἀφείσθ[ω] ἀπὸ τῶν ὑπαρχόντων μοι [σ]ω- μάτων [ἐλ]εύθερα. This replaces the κατα- λείπω clause.	not included	x
17.2.15-40 Will of Menandros	x	x	x	not included	x
17.2.41-49 Will of Euphronios	x	x	x	lost	lost
18.1-24 Will of Dionysios	x	x	καταλείπω τὸν σταθμὸν ὃν ἔλαβον ἐκ τοῦ βασιλικοῦ καὶ τὸν ἔπιπον καὶ τὰ ὄπλα (note epitropos is Demetrios not king)	not included	not included
22.1-14 Will of ----	x	x	[καὶ ὃν ἔχω σταθμὸν ἐγ βασιλικοῦ ἐν ταῖς Καμίνοις τοῦ Ἀρσινόιτου.....] καὶ τὰ συμβόλαια	lost	lost
23.1.17 Will of ---- very fragmentary	[x]	x	x	not included	x
24.1.15-38 Will of Aphrodisios	x	x	x	not included	x
25.8-38 Will of ----	x	x	very complicated distribution with provis- ions for dowries and contingencies	not included	x

*Τάδε διέθετο νοῶν καὶ φρονῶν
and εἶη μέμ μοι ὑγιαίνοντι αὐτὸν αὐτοῦ διοικεῖν.*

Both of these phrases almost without variation occur in every single will. They are the handbook beginnings and as such provide the clear legal and practical advice that what follows is a testament, a will. We might note that the opening statement is an objective statement, impersonally in the third person singular; by the second phrase we begin with “μοι” to shift to the first person. The third person objective statement is characteristic of Greek contracts, e.g. *ἐδάμεισεν, ἐμίσθωσεν*, etc. This shifting in the Petrie wills indicates how fluid and unfixed this practice of wills was in the third century, at least in the Fayum of Egypt.

Ἐὰν δέ τι ἀνθρώπιον πάσχω, καταλείπω κτλ.

The first part of this phrase is a formulaic euphemism and apparently occurs in every one of the wills. *Καταλείπω* — in one instance, *καταλιμπάνω* — also occurs in all wills. What follows presents some interesting variations. The obvious formula is *ὑπάρχοντα πάντα τῶι δείνα..* This simple phrase does occur at least six times as can be noted in the table above. One variation that is common is the use of the phrase followed by *καί*. In no. 4 there is added *ὅσα ἂν ἐπικτήσωμαι* and in no. 6, *ὅσα ὀφέλουσίν τινές μοι*. These phrases, used only in these two instances to attempt to deal with changed circumstances between the making of the will and the moment of death, indicate that the Greeks in this community have not clearly thought through this knotty legal problem in will-making. In three cases, the will in no. 22 and two of the wills in no. 16, *πάντα* is followed by mention of a *σταθμός*, and in one case is replaced by the explicit bequest of the stathmos and the klerouch's horse and armor.

In two cases, the wills in no. 9, a manumission clause follows *πάντα*, and in the will of Ammonios in no. 16 the manumission clause replaces the *καταλείπω* clause. There is also a manumission clause in the three wills in no. 3. That manumission clauses caused trouble for the scribes using the formulae is most clearly indicated in the will of Menippos in no. 3 where the testator is interested in the manumission of a female slave and her children and not in the disposition of his property. The wording there is illogical: *καταλείπω Σεμέλην ἐλευθέραν καὶ τὰ παιδιά*; nonetheless the intent is clear. The formulae simply did not have a clause to deal with manumissions per testamentum. Contracts of paramone seem to have been a more usual practice in Greece itself for dealing with this particular situation.

Other wills contain more elaborate dispositions. No. 1 specifically concerns the bequest of a sanctuary; there is no concern with any other property the 80 year old testator may have had. The will of Demetrios in no. 3, that of Peisias in no. 13 and that in no. 25 present very complicated dispositions. Also in a number of these will the testator attempts to make provision for contingencies, particularly the case where a designated heir or legatee predeceases the testator. This is the case in both wills in no. 22, in no. 25, and in the will of Ammonios in no. 16.

Ὁφείλω οὐθενὶ οὐθέν

This phrase is extant in only three wills and definitely not present in sixteen others. Clearly the problem of inheriting a debtor estate had not presented a great problem to this community but in a few cases there seems to have been a dim awareness of it. There is no indication in these three wills that the inclusion of the statement indicates that the testator might have some amount of debt that could become the responsibility of his heir.

**Ἄλλωι οὐθενὶ οὐθέν καταλείπω*

This disclaimer appears in eight wills and does not appear in seven. It is difficult to see in any case if it is more than formulaic. In no. 1 it does not occur and the will concerns only a sanctuary; one might think that there was other property. There does not, however, seem to be any rational pattern for its inclusion as in no. 11 where it is superfluous or in the will of Ammonios in no. 16 where it does not really make sense. Nor is there clear reason evident for its omission in other cases. It is obviously a formulaic clause which did not have great meaning for the testators.

Conclusions

The inconsistent use of the formulae in the Petrie wills illustrate well the uncertainties of the Greek community in the Fayum of Ptolemaic Egypt in the third century B.C. They do not have the institutional structure of the polis to provide the guidelines about passing on the property nor the desire to preserve the customs of family and state in so doing. Largely they seem to be interested in very private and idiosyncratic goals and their wills resemble bequests or legacies rather than full scale inheritances of family or individual estates. Nonetheless they are anxious that their wishes be fulfilled. In the first place they have had recourse to a formulaic structure un-

doubtedly based on their collective past derived from the polis. Then they have attempted to create the trappings of community using the evocation of the royal house in the preamble and in the appointment of the royal family as epitropoi and in employing six of their fellow Greek settlers as witnesses. These wills would hardly stand in a Roman court, but we must remember they are the earliest actual wills that we possess and are valuable in their awkwardness for the insight they give us into the formation of community among the Greek diaspora after Alexander.

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