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## The origin and competence of the πρά?τωρ ξενι?ών

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## THE ORIGIN AND COMPETENCE OF THE ΠΡΑΚΤΩΡ ΞΕΝΙΚΩΝ

In the papyri from the Ptolemaic and Roman periods, an official called *πράκτωρ ξενικῶν* is mentioned, whose origin and competence have not been monographically dealt with in literature as yet<sup>1</sup>. This article undertakes to fill up this gap.

The papyrus Hal. 1 from the 3rd cent. B.C.<sup>2</sup> is the oldest papyrus which mentions a *πράκτωρ* without any further specification. He appears there as an executive official entitled to carry

<sup>1</sup> Some remarks are to be found: Grenfell-Hunt-Smyly, *The Tebtunis Papyri* I (1902) p. 55, 57; L. Wenger, *Arch. f. Pap.* II (1903) p. 494; Grenfell-Hunt, *The Oxyrynchus Papyri* IV (1904) p. 177—179; Th. Reinach, *Papyrus Grecs et Démotiques* (1906) p. 40; L. Mitteis, *Griech. Urkunden der Papyrussammlung zu Leipzig* (1906) p. 326; O. Gradenwitz, *Arch. f. Pap.* III (1906) p. 25n. 1, 29—31; R. Taubenschlag, *Arch. f. Pap.* IV (1907) p. 11n. 1; H. Lewald, *Beiträge zur Kenntnis des röm.-ägyptischen Grundbuchsrechts* (1908) p. 67—70; A. B. Schwarz, *Hypothek und Hypallagma* (1911) p. 96, 130—131; P. Jouguet, *Papyrus Grecs* II (1912) p. 198; L. Mitteis, *Grundzüge* (1912) p. 17—19, 30, 128—129, 159—160; Graeca Halensis, *Dikaiomata* (1913) p. 58, 95—97; P. Jörs, *Sav. Z.* XXXVI (1915) p. 235, 261, 312; Fr. Oertel, *Die Liturgie* (1917) p. 114—115; P. Jörs, *Sav. Z.* XXXIX (1918) p. 89—91; XL (1919) p. 4n. 4, 40—45, 76, 85n. 1, 86; P. M. Meyer, *Jur. Pap.* (1920) p. 159 f.; *Z. f. vgl. Rechtsw.* XXXIX (1921) p. 281; U. Wilcken, *Urkunden der Ptolemäerzeit* I (1922) p. 546; W. Westermann, *Upon Slavery in Ptolemaic Egypt* (1922) p. 17; E. Weiss, *Griechisches Privatrecht* (1923) p. 466, 472, 489n. 132; Fr. Pringsheim *Sav. Z.* XLIV (1924) p. 498 f., 514; P. M. Meyer, *Sav. Z.* XLIV (1926) p. 315; S. Möller, *Griech. Papyri aus dem Berliner-Museum* (1929) p. 37; P. M. Meyer, *Sav. Z.* L (1930) p. 538; C. C. Edgar, *Zenon Papyri in the University of Michigan Collection*, XXIV (1931) p. 150n. 1; O. Guéraud, *Enteuxeis* II (1932) p. 182; Hunt-Smyly, *The Tebtunis Papyri* III, 1 (1933) p. 108—109, 271; A. B. Schwarz, *Aegyptus* XVII (1937) p. 242 and *passim*; Le Roy Wallace, *Taxation in Egypt from Augustus to Diocletian* (1938) p. 482; R. Taubenschlag, *The Law of Greco-Roman Egypt* I (1944) p. 401, 402, 406, 407—410; Fr. Pringsheim, *The Greek Sale by Auction (Scritti Ferrini* IV (1949) p. 287 f.).

<sup>2</sup> P. Hal. 1 (v. 47, 54, 116, 119, 126) cf. Graeca Halensis, *Dikaiomata* p. 58 ff.

out execution upon persons and properties<sup>3</sup> in respect to all the inhabitants of Alexandria, royal envoys exempted<sup>4</sup>. He is probably also competent as far as soldiers are concerned whose cases used to be examined by courts called ξενικά δικαστήρια<sup>5</sup>).

This πράκτωρ is however not an official originating in Egypt; on the contrary he has been received from the Attic law<sup>6</sup>, which—as it is now well known—served in many respects as a model for the law of Alexandria<sup>7</sup>. A similar πράκτωρ without any additional specification is to be found outside of Alexandria in the χώρα<sup>8</sup>. The remarks upon this πράκτωρ in other documents from the III cent. B. C. are very vague<sup>9</sup> and do not allow any conclusions to be reached in respect to his competence.

<sup>3</sup> P. Hal. 1 (v. 116—117) και ὁ πράκτωρ ἢ ὁ ὑπηρέτης πραξά[τω καθάπερ ἐγ δίκης ἐκ τῶν ὑπαρχόντων, ἐὰν δὲ μὴ ἐκποιή, και ἐκ τοῦ σώματος. Similarly P. Hal. 1 (v. 119—120).

<sup>4</sup> P. Hal. 1 (v. 124—127) [κα]τὰ δὲ [τῶ]ν ἀπεσταλμ[έ]νων ὑπ[ὸ] τοῦ βα[σι]λεύου δίκην μ[η]δεῖς [εἰσαγέτ]ω μῆτε κ[α]τ' αὐτῶν μῆ]τε κατὰ τ[ῶ]ν ἐγγύ[ων, μῆ]δὲ ὁ πράκτωρ μῆ[δ]ὲ οἱ [ὑπ]ηρέται παραλα[μβαν]έτωσαν τούτ[ο]υς. cf. *Dikaiomata* p. 86.

<sup>5</sup> P. Hal. 1 (v. 156 ff.) Τῶν δὲ << τῶν δέ >> ἐν τ[ῶ]ι στρατ[ι]ωτικῶ[ι] τεταγμένων ὅσο[ι] ἂν ἐν [Ἀ]λεξάνδρεια[ι] πεπο[λ]ιτογραφημένοι ἐν[κα]λῶσ[ιν] περὶ σιτ[α]ρχιῶν και σιτομετ[ρι]ῶν και πα[ρ]αγρα[φῶ]ν τῶ[ν] ἐξίτ[α]ρχίας ἢ σι[τ]ομετρίας γινομένω[ν, ἐ]ὰν και οἱ ἀντ[ι]δ[ι]κοὶ ἐν τῶι [σ]τρατιωτικῶι ὄν[τε]ς π[ε]πολιτογ[ρ]αφημένοι ὤ[σ]ιν, λα[μ]βαν[έ]τωσαν τὸ δ[ι]καιον [κ]αι ὑπεχέτω[σ]αν ἐν [τοῖς] ξεν[ι]κοῖς δικαστη[ρί]οις και αἱ π[ρ]άξεις ἔστωσαν κατὰ τὸ διάγραμμα cf. on this court: Graeca Halensis, *Dikaiomata* p. 95—97; Schubart, *Einführung in die Papyruskunde* p. 286, 293; P. M. Meyer, *Sav. Z.* XLVI (1926) p. 315; Berneker, *Die Sondergerichtsbarkeit im griechischen Recht Ägyptens* p. 159—160.

<sup>6</sup> Cf. Lipsius, *Das attische Recht u. Rechtsverfahren* p. 944—945.

<sup>7</sup> Cf. P. Oxy. XVIII 2177 (v. 12—15) (III cent. A. D.) Καῖσαρ τοῖς γὰρ αὐτοῖς νόμοις χρῶ[ν]ται Ἀθηναῖοι και Ἀλεξάνδρεις see Seidl, *Studia et documenta hist. et iuris* XV (1949) p. 328.

<sup>8</sup> P. Hib. 30 = *M. Chr.* 20 (v. 17—19) (300—270) B. C.) [ταύτας] ἀπαιτούμενος ὑπό μου πολλάκις, οὐκ ἀποδίδ[ω]ις οὔτε τῶι πράκτορι ἠβούλου ἐξομο[λο]γήσασθαι.

<sup>9</sup> Cf. P. Hib. 92 = *M. Chr.* 23 (v. 20—22) (263—2 B. C.); UPZ Nr. 156 (v. 2) (259 B. C.); PSI IV 335 (v. 24) (257—6 B. C.); Cair.-Zen. I 59136 (v. 6) (256 B. C.) cf. p. 145; Mich. Zen. 58 (v. 7) (248 B. C.); Col. Zen. II 88 (v. 3—4) (245 B. C.); 83 (v. 9) (245—4 B. C.); 90 (v. 15) (243—2 B. C.); Cair.-Zen. III 59367 (v. 9) 240 B. C.; Tebt. 814 Col. I (v. 2, 28, 40) (239—227 B. C.) see however l.c. p. 271; Ent. II 62 (v. 10) (221 B. C.); P. Lille 28 (v. 13) (III cent. B. C.); see also Cair.-Zen. III 59460 (v. 6, 12) and Cair.-Zen. III 59490 (v. 46, 52) (both from the III cent. B. C.).

## I

Beside this πράκτωρ without any further specification we meet in the papyri from the middle of the III cent. B.C. the πράκτορες with various supplements.

The oldest of this group of documents U.P.Z. Nr 153 (v. 12-13) (255 B.C.) refers to a πράκτωρ τῶν βασιλικῶν<sup>10</sup>. The contents of this document is connected with U.P.Z. Nr 154 (254 B.C.) and U.P.Z. Nr 155 (254 B.C.). All these three documents are receipts for the payment of instalments of a price obtained in an auction of property. The price is due for the so called ἰβιοταφεῖον an office of prophet and a half of δωρεαία γῆ belonging to the ἰβιοταφεῖον, whose former proprietor, Dorion, was probably a fiscal debtor, and whose properties were assigned (προσέβαλοντο) to buyers<sup>11</sup>. It may be that this πράκτωρ τῶν βασιλικῶν is identical with the πράκτωρ βασιλικός, mentioned in P.S.J. IV 389 (243-2 B.C.)<sup>12</sup>. As Pringsheim points out<sup>13</sup>, a debtor of a loan had been arrested by this πράκτωρ at the creditors request; he has paid a part of the sum owed and declares now that he owes the rest and will pay it by monthly instalments within a year. It is noteworthy that the parties in this document bear Greek names.

Another πράκτωρ called τῶν ἰδιωτικῶν appears about the same time in Col. Zen. 54 (250 B.C.), Hibeh. 34 (243-2 B.C.) and Mich. Zen. Nr 71 (246-221 B.C.).

The papyrus Col. Zen. 54<sup>14</sup> concerns a preparation of a case against the lessees of Apollonios. As they did not fulfill the terms

<sup>10</sup> Wilcken, *UPZ* II p. 10 asserts that this title should be completed by the word προσόδων with reference to Petr. III 26 (v. 14-15).

<sup>11</sup> Cf. *UPZ* Nr 153 (v. 12-13) ἃ προσεβάλοντο δι' Ὀνομάρχου πράκτορος τῶν βασιλικῶν (δραχμὰς) ἑβδομήκοντα. see also (v. 24-25); *UPZ* Nr 154 (v. 11-12) and *UPZ* Nr 155 (v. 12-13) cf. Wilcken l.c. II, I, p. 6-8.

<sup>12</sup> Cf. Mitteis, *Grundz.* p. 66 f.; Vitelli, *PSI* IV p. 108; P. M. Meyer, *Z. f. vgl. Rechtsw.* XXXIX p. 261; *Sav. Z.* XLIV p. 398, 401 n. 3 and *passim*; XLIX p. 364 n. 2; LI p. 89; Pringsheim, *Studi Ferrini* IV (1949) p. 335.

<sup>13</sup> *The Greek Law of Sale*, p. 33. I think that we have here a case analogous with the πράκτωρ ξενικῶν who sometimes is called πράκτωρ ξενικός as well as in Ent. II 74 (v. 17) (221 B.C.) and Rein. 7 (v. 35) (141 B.C.).

<sup>14</sup> Cf. Westermann, *A Lease from the Estate of Apollonios*, p. 15 f.; P. M. Meyer, *Sav. Z. L.* p. 527 f.; Wilcken, *Arch. f. Pap.* IX p. 67 f.; Westermann, *Col. Zen.* I p. 132-144; Taubenschlag, *Law I* p. 231 n. 7 and *passim*.

of the contracts, Zenon decided to institute a complaint against one of the lessees, Theopompos. Accordingly Zenon had one of his clerks make a copy of the lease and an estimate of the rent and other debts owed to Apollonios, having first deducted the amounts paid by the lessees. Another clerk then took dictation as to the method of formulating the petition in the case, as it was to be presented in court against the defendant. In Zenon directions to this clerk the formal claim was to be handed in to the office of the πράκτωρ τῶν ιδιωτικῶν<sup>15</sup>. Hibe 34 = M. Chr. 34 (243 B.C.)<sup>16</sup>, which is strongly connected with Hibe 73, the events are as follow: Callidromus, a Cyrenean settler had obtained unlawful possession of a donkey belonging to a certain Dorion and Antigonus, probably a phylacites, has been directed by Dorion the epistates to compel Callidromus either to restore the animal to its owner or to pay its value Antigonus accordingly arrested Callidromus and lodged him in a prison at the village of Sinaru. Patron, the archiphylacites, then intervened and not only released Callidromus from prison but himself took possession of the donkey. Antigonus applies to the king that Patron the archiphylacites may be compelled by the πράκτωρ τῶν ιδιωτικῶν to repay the triple value of the ass<sup>17</sup>, because he had unlawfully released a man from prison, thus frustrating the execution on his person<sup>18</sup>.

<sup>15</sup> Cf. P. Col. Zen. 54 Col. III (v. 47) Κράτωνι ὑπρέτητι Διογένους πράκτορος τῶν ιδιωτικῶν. πρὸς πυ(ρόν) ἀρ(τάβας)χϞδ (ἡμισυ) (τρίτον) (δωδέκατον). προσθεῖναι δεῖ τὴν ἡμιολίαν κατὰ τὴν συγγραφὴν καὶ τὴν τιμὴν παντὸς ὑποθεῖναι κατὰ τὸ διάγραμμα τὸ περὶ τῶν σιτικῶν ἐκκειμενον. (v. 53) δεῖ πράκτορι παραδε[ῖξαι] τ[ῆν] τιμ[ὴν] παντὸς κατὰ τὴν συγγραφ[ῆν]. προσθεῖναι τ[ῆν] π[ρ]ᾶξιν εἶναι πρὸς βασιλικά, see Westermann l.c. p. 140 n. 47. A πράκτωρ named Kraton has appeared in Cair.-Zen III 59367 (v. 9, 15, 21) dated in 240 B.C. It is probably the same Kraton as in our papyrus.

<sup>16</sup> Cf. Grenfell-Hunt l.c. p. 176; to the literature quoted by M. Chr. 34 may be added: Jörs, *Sav. Z.* XL p. 44 n. 1; Pringsheim, *Sav. Z.* XLIV p. 499; Taubenschlag, *Law I* p. 337 n. 72, 338 n. 76, 425 n. 20.

<sup>17</sup> Cf. P. Hib. 34 (v. 7) προστάξει γρ]άψαι Ξενοκράτη τῶι πράκτορι τῶν ιδιωτικῶν ἐπειδὴ Πάτρων παρὰ διαγρά[μματα ἐξήγαγε τὸν] ἄνθρωπον ἐκ τοῦ δεσμοτηρίου ἵνα μὴ ἡ πράξις [[συντελεσθῆι γενηθῆι ἐκ τοῦ σώματος]] πράξαι α[ὐτὸν] ἵν' ἀποδοῦναι ἵνα μὴ [.....] τοῦτο τὸ ἀργύριον τ[ρ]ι[π]λοῦν κατὰ τὸ διάγραμμα.

<sup>18</sup> As to the character of this delict cf. Taubenschlag, *Strafrecht*, p. 23—24.

In Mich. Zen. Nr 71<sup>19</sup> (reign of Ptolemy III) Attalos was claiming a sum of 43 drachmas from Apollonia, whom Apollonios, probably a relative and possibly her legal guardian, had undertaken to produce in court, becoming responsible for the debt if he failed to do so. The πράκτωρ τῶν ιδιωτικῶν Ptolemaios had been ordered by Sarambos, the authority concerned, to exact the money from Apollonios if he did not produce the woman within ten days; but through the term had expired, he had done nothing. Attalos therefore asks the king that an order be sent to Sarambos to exact from the practor, in accordance with the edict about such cases, a penalty of three times the amount of the debt.<sup>20</sup> In all these three documents the parties are Greeks and the πράκτορες τῶν ιδιωτικῶν appear as executive officials for private claims.

The still unpublished Lond. Inv. 2308 (241 B.C.)<sup>21</sup> mentions a Φίλιππος πράκτωρ, and the editor completes the gap by the term (Ξενικῶν). With all certainty, however, is the πράκτωρ ξενικῶν for the first time to be found in Enteuxeis II Nr 74 (221 B.C.)<sup>22</sup>. The parties in this complaint which is addressed to the king are X the son of Antigeneis and Peithias and dwell in the same village. The πράκτωρ ξενικῶν has to exact an amount of money as compensation for injury sustained by the plaintiff (τὸ τίμημα τῆς ὕβρεως) on condition that he makes good his claim before the ἐπιστάτης, the strategos delegate. In the papyri of the second century there is evidence that the πράκτωρ ξενικῶν was the executive official of the court of the chrematistae.

These documents chronologically regarded — show that in the first half of the III cent. — the executive official was a πράκτωρ without nearer denomination. The functions of this πράκτωρ were

<sup>19</sup> Cf. Taubenschlag, *Law I* p. 337 n. 72, 338 n. 76, 425 n. 20.

<sup>20</sup> Cf. (v. 1) ἀδικοῦμαι ὑπὸ Πτολεμαίου [ἢ] μετ' αὐτοῦ τοῦ Πτολεμαίου πράκτορος ιδιωτικῶν. (v. 7) προστάξει Ἀφθονήτω [ἢ] τῷ στρατηγῷ γράψαι Σηράμβωι ἂν ἦ ἀληθῆ εἰσπράξαντα Πτολεμαῖον τριπλῆν τὴν πρᾶξιν κατὰ τὸ διάγραμμα ἢ ρηθ ἄποδοῦναι μοι.

<sup>21</sup> Cf. W. Peremans et E. Van't Dack, *Prosopographia Ptolemaica*, p. 158, Nr 1743 with reference to an information by Mr. C. Skeat.

<sup>22</sup> Cf. (v. 1—3) Ἀντιγένους, Πέρσης τῆ[ς] ἐπι[γ[ον]τῆς] κατοικῶν ἐν Βερενικίδι τῆι πρὸς τῷ [Θεσμοφόρῳ, τῆς Πολέμωνος μερίδος]. Ἀδικοῦμαι ὑπὸ Πειθίου κατοικῶν τὴν [αὐτὴν κώμην] (v. 17). γράψας τῷ ξενικῷ πράκτορι πρᾶξαι κτλ see Taubenschlag, *Law I*, p. 330 n. 35, 332 n. 43, 44, 46, 51.

about the middle of the III cent. taken over by three πράκτορες called βασιλικῶν, ιδιωτικῶν and ξενικῶν.

The appearance of the three πράκτορες coincides with the time in which the court of the chrematistae was constituted. Pseudo-Aristeas informs that as the king Philadelphos constituted not only this court but also its ὑπηρέται<sup>23</sup>, it is probable that the πράκτορες should belong to this group of officials. The question arises where from they receive their different denominations and what were their mutual relations.

The term τὸ βασιλικὸν means in the Ptolemaic period the fiscus<sup>24</sup>. We must therefore understand by this term fiscal cases. From hence the πράκτωρ τῶν βασιλικῶν, as it results from τὰ βασιλικά is to be considered as the executive official in such cases<sup>25</sup>.

On the contrary the πράκτωρ ξενικῶν and πράκτωρ τῶν ιδιωτικῶν were executive organs in private cases. We have now to fix the limits of their competence.

It is known to day that the term ξένοι was applied in Egypt to persons who were outside of their ἰδίᾳ<sup>26</sup>. This is clearly shown by Ent. II 83<sup>27</sup>, where the Egyptian woman named Thamunis an inhabitant of Heracleopolis applies to the king with the complaint that as a foreigner (ξένη) in the village of Oxyryncha, she was — while bading — beaten and her belongings stolen by another Egyptian woman named Thothortais, an inhabitant of the village Oxyryncha of the Arsinoites district<sup>28</sup>. Strabo writing his history of the Ptolemaic Egypt calls ξένοι the pilgrims coming to Arsinoe from neighbouring places to worship a crocodile tamed

<sup>23</sup> Cf. Pseudo-Aristeas ad Philocratem 111. Πρὸ πολλοῦ δὲ ποιούμενος καὶ χρηματιστὰς καὶ τοὺς τούτων ὑπηρέτας ἐπέταξε κατὰ νόμους κτλ.

<sup>24</sup> Cf. Taubenschlag, *Law I*, p. 43.

<sup>25</sup> Cf. Preisigke, *Wörterbuch* s. v. βασιλικός; Taubenschlag, *Law II*, p. 8—9: βασιλική γῆ = the state land; βασιλικαὶ τράπεζαι = the state banks.

<sup>26</sup> Cf. Graeca Halensis, *Dikaiomata* p. 96; Wilcken, *Grundz.* p. 26; P. M Meyer, *Sav. Z.* XLVI, p. 315; Berneker, *Die Sondergerichtsbarkeit im griechischen Recht Aegyptens*, p. 159; Taubenschlag, *Law II* p. 23.

<sup>27</sup> Cf. P. Lille II 42 = *M. Chr.* 8 (218 B.C.); to the literature quoted there may be added Taubenschlag, *Law I*, p. 336 n. 6, 8 and *passim*.

<sup>28</sup> Cf. (v. 4) καταγνοῦσά μου ὅτι ξένη εἰμ[ι] κτλ.

by the priests<sup>29</sup>. He means by this term persons who temporarily found themselves outside their *ιδία*. On the other side the term *ιδιωται* would — as Edgar supposes<sup>30</sup> — refer to residents, that is persons biding in the place of their *ιδία*<sup>31</sup>. Should this be right, we could presume that originally the *πράκτωρ ξενικῶν* was an executive organ for persons being outside the place of their *ιδία* and his name has derive from his function. The *πράκτωρ τῶν ιδιωτικῶν* — on the contrary — would act as an executive officer in respect to the properties of *ιδιωται*, the residents or persons dwelling in the place of their *ιδία*.

Towards the end of the III century B.C. and later neither the *πράκτωρ τῶν βασιλικῶν* nor the *πράκτωρ τῶν ιδιωτικῶν* are mentioned in executorial documents.<sup>32</sup> It is an indication that both the officials have ceased to exist and the *πράκτωρ ξενικῶν* has taken over their functions.

The term *ξενικῶν πράκτωρ* dating from the middle of the III cent. lost in the course of time its original meaning, because this was — with the exclusion of other ones — the unique executive organ, also for residents. We see — it is true — from time to time in our sources an executive organ called *πράκτωρ* without any special designation<sup>33</sup> but we can explain this by the assumption that the official terminology was not always strictly applied<sup>34</sup>.

<sup>29</sup> Cf. Strabo, *Geographica* 17 p. 811 § 38 *τρέφεται* (sc. the crocodile) *δὲ σιτίοις, καὶ κρέασι, καὶ οἴνῳ προσφερόντων ἀεὶ τῶν ξένων, τῶν ἐπὶ τὴν θέαν ἀφικνουμένων.*

<sup>30</sup> Cf. Mich. Zen. p. 150 ad v. 1 with reference to Westermann, *A Lease from the Estate of Apollonios*, p. 16.

<sup>31</sup> P. M. Meyer, *Sav. Z.* XLVI p. 315 seems to join this opinion; otherwise Pringsheim, *Sav. Z.* XLVI p. 498 f., who refers it to soldiers. Aristophanes, *Ranae* (ed. Dindorf) 449—459 is of no use for us; he says: that the sun shines alike *περὶ τοὺς ξένους καὶ τοὺς ιδιώτας*, that means to his countrymen and to foreigners. See also Lidell-Scott, *Greek-English Lexicon* s. v. *ιδιώτης* IV. But we must confess that this hypothesis is opposed by Col. Zen. 54 where the *πράκτωρ ιδιωτικῶν* has to carry out execution upon the property of the epigoni who must be considered as *ξένοι*. So Pringsheim l. c. p. 499, 514; P. M. Meyer, *Sav. Z.* XLVI, p. 315.

<sup>32</sup> See Tab. I.

<sup>33</sup> Cf. P. Princ. II 16 (v. 10, 20) (158 B.C.) and the ed. p. 4; Wessely, *Studien zur Palaeographie* I, p. 1—2 (v. 6) (II cent. B.C.); B.G.U. 1132 (v. 8) (17—16 B.C.).

<sup>34</sup> Cf. Col. Zen. 54 (v. 47 f.) (250 B.C.) mentions *Διογένους πράκτορος τῶν ιδιωτικῶν*, and (v. 53) says only *δεῖ πρ[ά]κτορι*; P. Tor. 13=*M. Chr.* 299 (v. 1, 15)



In the later Ptolemaic and Roman periods we find numerous documents in which the πράκτωρ ξενικῶν is mentioned<sup>35</sup>. In so far as the Roman period is concerned, it has to be pointed out that after the annexation of Egypt by Augustus, the Romans had introduced into Egypt their own civil procedure, the *extraordinaria cognitio*<sup>36</sup>. This procedure had its own judicial and executive organs, both differing from the former ones<sup>37</sup>. The ancient execution organs were not suppressed however, but were employed by the Romans for the slightly modified execution of executorial documents<sup>38</sup>. Whilst in the Ptolemaic era, the creditor provided with an executorial document should have applied for execution directly to the πράκτωρ ξενικῶν<sup>39</sup>, in the Roman period the creditor had to apply to judicial authorities such as the prefect or the chrematists and archidicastes who decided upon the executorial proceedings and employed the πράκτωρ ξενικῶν, as executorial officer only<sup>40</sup>. These proceedings ceased to exist by the end of the III cent. A.D. Since that time the execution of executorial documents was performed by means of a *libellus* presented by the creditor to the competent authorities (prefect)<sup>41</sup> and since that time the chrematists and the πράκτωρ ξενικῶν<sup>42</sup> does not appear anymore in the papyri. During both periods the competence of the πράκτωρ ξενικῶν officiating either singly or collegially<sup>43</sup> was restricted to a certain territory (νομός) or a

(147 B.C.) mentions ξενικῶν πράκτωρ and (v. 24) πράκτορι; P. Lips. 120 = *M. Chr.* 230 (v. 1) (ca 89 A.D.) Ἐξ συνικολησίμου ξενικῶν πρ(ακτορείας) and in (v. 13) ὁ πρά(κτωρ).

<sup>35</sup> See Tab. I.

<sup>36</sup> Cf. Jörs, *Sav. Z.* XL, p. 85.

<sup>37</sup> Cf. Jörs, *Sav. Z.* XL, p. 45 n. 2, 46 n. 1; P. Meyer, *Z. f. vgl. Rechtsw.* XXXIX, p. 281.

<sup>38</sup> Cf. Jörs, *Sav. Z.* XL, p. 85 ff.

<sup>39</sup> Cf. Taubenschlag, *Law I*, p. 406.

<sup>40</sup> Cf. Taubenschlag, *Law I*, p. 408.

<sup>41</sup> Cf. Taubenschlag, *Law I*, p. 410.

<sup>42</sup> The last executorial document in which the chrematists are found is P. Giss. I 34 = *M. Chr.* 75 (265—6 A.D.) and the last in which ξενικ....]πρακτορικὰ are mentioned is PSI XII 1238 (v. 11 f.) (244 A.D.).

<sup>43</sup> Cf. P. Rein. 19 = *M. Chr.* 27 (v. 17) (108 B.C.); S. B. 6663 (v. 31) (6—5 B. C.) see Kampstra, *Sav. Z.* XLIII, p. 556 ff.; P. Flor. 55 (v. 24) (88—96 A. D.) cf. Jörs, *Sav. Z.* XXXVI, p. 308.

town like Hermopolis or Memphis<sup>44</sup>. On principle the πράκτωρ ξενικῶν of the debtor's domicile<sup>45</sup> was entitled to carry out execution.

## II

We have now to deal with the legal basis of the competence of the πράκτωρ ξενικῶν. The first question that arises is: Was there in Ptolemaic times a law regulating the execution in civil cases and — if so — what was its contents.

It is sufficiently known, that the Ptolemies exercised their control upon legal matters either through διαγράμματα or through νόμοι or else by προστάγματα<sup>46</sup>. Thus the executorial proceedings were regulated by προστάγματα. Our sources mention namely the royal προστάγματα in the following stages of executive proceedings:

1. Ἐνεχυρασία : it is the taking over by the government of the debtors property designated by παράδειξις<sup>47</sup>. The ἐνεχυρασία was already known in the Ptolemaic period<sup>48</sup> but the πρόσταγμα regulating it is mentioned no sooner than in the Roman period<sup>49</sup>.

<sup>44</sup> See Tab. II.

<sup>45</sup> In S. B. 7817 (201 A. D.) the creditor is living in Alexandria and the debtor in Oxyrynchus and the πράκτωρ ξενικῶν from Oxyrynchus has to carry out execution; (v. 17 — 19) συνεκρέιναιμεν γραφήναι καὶ πεμφθῆναι, τῆς ἐντ[εύξεω]ς ἀντίγραφ(ον) τοῖς τοῦ Ὁξυρυγχείτου στρατηγῶ καὶ ξενικῶν πρ[άκτορι] κτλ.

<sup>46</sup> Cf. Taubenschlag, *Law I*, p. 408. On the survival of the Ptolemaic προστάγματα in the Roman period cf.; Taubenschlag, *Law I*, p. 10; Lenger, *Revue intern. des droits de l'antiquité* II (1949) p. 69 — 81; Taubenschlag, *Journal of Jur.Pap.* IV (1950) p. 349; Amelotti-Bingen-Lenger, *Chronique d'Egypte* Nr 50 (1940) p. 317 ff.

<sup>47</sup> Cf. Taubenschlag, *Law I*, p. 401 f., for the Roman period see ibidem p. 409 n. 15.

<sup>48</sup> Cf. P. Hib. 32 = M. Chr. 37 (v. 21) (247—245 B.C.); Tebt. 814 (v. 36—44) (239—227 B.C.) and the commentary p. 271; B.G.U. 1826 (v. 48) (52—51 B.C.)

<sup>49</sup> Cf. P. Meyer, *Jur. Pap.* Nr 48 (v. 39—48) (133 A. D.); βούλομαι.....συγκρέιναι γραφήναι [τῶι] τῆς Πολέμωνος μ[ερ]ίδος τοῦ Ἀρσινοείτου στρατηγῶ καὶ [τ]ῶι τοῦ νομοῦ ξεν[ι]κῶν πράκτορι συντελεῖν μοι τὴν [πραξί]ν τῶν τοῦ πυρ[οῦ] ἀ[ρ]ταβῶν εἴκοσι ἕξ ἕκ τε τῆς ὑπηλ[λαγμ]ένης πρὸς τὸ δά[νειο]ν διὰ τοῦ τῶν ἐνκλήσεων βιβλιοφυ[λακείο]υ ἐν τῇ Τεπτύ[νει] μέρους διμοίρου οἰκίας — εἰς ἐνεχυρασίαν ἐπὶ τῶν τόπων ὑπα[ρχ]όντων καὶ ἐτέρ[ω]ν ἀπαραποδίστως τοῖς προσταταγμένο(ις) [ἀ]κ[ολού]θως, κτλ; B.G.U. 1038 = M. Chr. 240 (v. 18) (Antoninus Pius era); Oxy. 712 (v. 18) (late II cent. A.D.) see Jörs, *Sav. Z.* XXXVI, p. 334 n. 4; Aberd. 19 (v. 2) (II/III cent. A.D.); S.B. 7817 (v. 63 f) (201 A.D.).

2. The same holds good for the ἐμβαδεια, the intromission into the possession of a real estate, carried out by ἐκχώρησις of the debtor and ἐμβιβάσαι of the creditor<sup>50</sup>.

3. Finally the καταγραφή i.e. the transfer of the property by a public deed occurs in the Ptolemaic period<sup>51</sup> but the πρόσταγμα regulating it is to be found again in the Roman time<sup>52</sup>.

A series of προστάγματα controlled — as we see — the ἐνεχυρασία, ἐμβαδεια and καταγραφή. We must suppose that also the other stages of the execution: the παράδειξις and the προσβολή were also regulated in the same way. It is noteworthy that in these four stages i.e. the παράδειξις, the ἐνεχυρασία, the προσβολή and the καταγραφή — the πράκτωρ ξενικῶν plays an active role<sup>53</sup>. I think it would not be too hazardous to assert that the

<sup>50</sup> Cf. Berl. Leihg. 10 (v. 15) (120 A.D.) συνεκρίναμεν γραφήναι — στρατηγῶι, ὅπ[ω]ς προδιαστε[ι]λάμενο<(ι)>>ς τοῖς οὖσι ἐν τοῖς καταγεγραμμένοις ὑπάρχουσι ἐκχωρεῖν [ἐκ τούτων ἐν ἡ]μέραις δέκα μετὰ ταῦτα[ς] ποιῆται τὰ τῆ[ς] ἐμβ[ι]β[ι]βάσαις, ὃν τρόπον καθήκει τοῖς προστεταγμένοις [ἀκολούθως]; B.G.U. 1573 (v. 18 f., 28 f.) (141—2 A.D.); PSI XII 1237 (v. 26) (162 A.D.); Flor. 56 = M. Chr. 241 = P. Meyer, *Jur. Pap.* Nr 49 (v. 10, 17) (233—4 A.D.). See also Taubenschlag, *Law I*, p. 410.

<sup>51</sup> Cf. Comment. ad Tebt. 814 p. 272; Taubenschlag, *Journal of Jur. Pap.* IV, p. 349.

<sup>52</sup> Cf. Berl. Leihg. 10 (v. 17) (120 A.D.) καταγέγραμμαι κ[α]τὰ τὰ προστεταγμένα; S. B. 6951 (v. 46) (Antoninus Pius era); Flor. 56 = M. Chr. 241 = P. Meyer, *Jur. Pap.* Nr 49, cf. B. L. II, 2 p. 58 (v. 11) (233—4 A.D.); Comment. ad Tebt. 814 p. 272.

<sup>53</sup> On παράδειξις: Tebt. 814 (v. 37—40) (239—227) παρέδειξεν Θερωῶς Νεχθαθύμιος [Ἄ]ρσινοῖτις μετὰ κυρίου Ἑρακλείδου τοῦ [Ἄ]πολλωνίου Π[έ]ρσου τῶν ἐπεργῶν Βοῖσκωι [ύ]πηρέτηι, Ἄλεξάνδρου πράκτορος, see the ed. p. 271. On ἐνεχυρασία: Tebt. 814 (v. 36—44) p. 271; B. G. U. 1826 (v. 46) (52—51 B.C.) [τῶ τῶν] ξενικῶν πράκτωρι, [ἴ]να... ..] ἐνεχυρασίαν τῶν οἰκ[ι]ῶν... τὴν ἐκπραξίν] τῶν ἀπητημένων ποιήσ[η]...; Flor. 55 (v. 26) (88—96 A.D.) see Jörs, *Sav. Z.* XXXVI, p. 308; P. Meyer, *Jur. Pap.* Nr 48 (v. 13 ff.) (133 A.D.); B. G. U. 1038 = M. Chr. 240 (v. 13—18) (Antoninus Pius era); S. B. 7817 (v. 60—66) (201 A.D.); Aberd. 19 (v. 19—21) (II/III cent. A.D.); Jand. 154 (v. 1—3) (224 A.D.). On προσβολή: Tebt. 814 (v. 1 f.) (239—227 B.C.); Flor. 55 (v. 26) (88—96 A.D.) καταγέγραμμαι διὰ τοῦ ἐν [Ἐ]ρμού πόλει ἀγορανομίου ἐξ] ἐνεχυρασίας καὶ προσβολῆς τῶν [ἐν Ἐ]ρμού πόλει ξενικῶν πρακτόρων, see Jörs, *Sav. Z.* XXXVI, p. 308. On καταγραφή: Lond. Inv. 1897 (v. 7—9) (178 A.D.) κατεγράφη ἐξ ἐνεχυρασίας καὶ προσβολῆς Ἀμμωνίου τοῦ καὶ Ἑρακλείδου καὶ ἑτέρου Ἀμμωνίου δημοσιωνῶν ξενικῆς πρακτορίας κτλ, cf. H. I. Bell, *Arch. f. Pap.* VI, p. 106; Oxy. 712 (v. 1—5) (end II cent. A.D.).

TAB. I

πράκτωρ τῶν βασιλικῶν	πράκτωρ τῶν ιδιωτικῶν	πράκτωρ ξενικῶν	πρακτορεία ξενική
U.P.Z. Nr 153 (255 B.C.) U.P.Z. Nr 154 (254 B.C.) U.P.Z. Nr 155 (254 B.C.) P.S.I. IV 389 (243/2 B.C.)	Col. Zen. 54 (250 B.C.) Hib. 34 (243/2 B.C.) Mich.Zen.71 (246/221 B.C.)	Lond. inv. 2308 ? (241 B.C.) Tebt. 814 (239/227 B.C.), cf. III, 1 p. 271. Ent. II Nr 74 (221 B.C.) Col. Inv. 480 (198/7 B.C.) Princ. II, 16 (158 B.C.) cf. II p. 4 Tor. 13 = M. Chr. 29 (147 B.C.) Rein. 7 = M. Chr. 16 (141 B.C.) Tebt. I, 5 (v. 221-250) = M. Chr. 36 (118 B.C.) Tebt. 707 (118 B.C.) Rein. 18 - 19 = M. Chr. 26 - 27 (108 B.C.) Tebt. 165 (105 B.C.) B.G.U. 1826 (52/1 B.C.) B.G.U. 1827 (52/1 B.C.) S.B. 6663 (6/5 A.D.) Oxy. 286 (82 A.D.) Oxy. 1203 + Griech. Pap. ed. Möller Nr inv. 11808 = S.B. 7339 (I cent. A.D.) Flor. 55 (88/96 A.D.) cf. J ö r s Sav. Z. XXXVI, 308. Fam. Tebt. 29 (133 A.D.) M e y e r, Jur. Pap. Nr 48 (133 A.D.) Ryl. 115 (156 A.D.) B.G.U. 1038 = M. Chr. 240 (Ant. Pius era) P.S.I. X, 1105 (173 A.D.) B.G.U. 970 = M. Chr. 242 (177 A.D.) Aberd. 19 (II/III cent. A.D.) S.B. 7817 (201 A.D.) Jand. 145 (224 A.D.) P.S.I. XII, 1238? (244 A.D.)	Berl. Leihg. 10 (120 A.D.) B.G.U. 1573 (141/2 A.D.) Lond. inv. 1897 (178 A.D.) Oxy. 825 (II cent. A.D.) Oxy. 712 = M. Chr. 231. (II cent. A.D.) Lips. 120 = M. Chr. 230 (II cent. A.D.) S.B. 7817 (201 A.D.)

TAB. II

Tor. 13 (v. 1) = M. Chr. 29 (147 B.C.) — Τῶι ἐν Μέμφει ξενικῶν πράκτορι — Tebt. 165 (105 B.C.) — τῶι ἐν τῶι Ἀρσινο[εἰ]τῆι ξενικῶν π[ρά]κτορι — Oxy. 286 (v. 15) (82 A.D.) — τῶι τοῦ Ὁξυρυγγείτου ξενικῶν πράκτορι — Flor. 55 (v. 26) (88-96 A.D.) — τῶν ἐν Ἐρμού πόλει ξενικῶν πρακτόρων — (cf. J ö r s, Sav. Z. XXXVI, 308) — Berl. Leihg. 10 (v. 18) (120 A.D.) — τῶν, τῆς [ξενικῆς] πρακτορίας δημοσιωνῶν τοῦ Ἀρσινοεῖτου νομοῦ — Fam. Tebt. 29 (v. 40 f) (133 A.D.) — τοῦ Ἀρσινοεῖτου στρατηγῶ καὶ τῶι τοῦ νομοῦ ξεν[ι]κῶν πράκτορι — M e y e r, Jur. Pap. Nr 48 (v. 15) (133 A.D.) — τοῦ Ἀρσινοεῖτου-νομοῦ ξενικῶν πράκτορι — B. G. U. 1573 (v. 7) (141-2 A.D.) — ἐπιτηρηταὶ ξενικῶν πρακτορείας Ἀρσινοεῖτου νομοῦ — Ryl. 115 (v. 16) (156 A.D.) — τοῖς τοῦ Ἐρμοπολ[εἰ]του στρατηγῶ[ι] καὶ ξενικῶν πράκτορι — B. G. U. 1038 (v. 15) = M. Chr. 240 (Ant. Pius era) — τοῦ Ἀρσινοεῖτου — [νομοῦ ξενικῶν πράκ]τορι — Oxy. 712 (v. 1) (II cent. A.D.) — ἐπιτηρηταὶ ξενικῶν πρακτορείας Ἀρσινοεῖτου — Aberd. 19 (v. 10) (III/II cent. A.D.) — τοῦ Ἀρσινοεῖτου στρατηγῶ καὶ τῶι τοῦ αὐ[τοῦ] νομοῦ ξενικῶν πράκτορι — S. B. 7817 (v. 1) (201 A.D.) — Σαραπίωνι ἐπιτηρητῆι ξενικῆς πρακτορείας Ὁξυρυγγείτου —
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same προστάγματα which dealt with the executorial proceedings, defined also the competence of the ξενικῶν πράκτωρ.

Besides the above mentioned προστάγματα there existed also προστάγματα restraining the executive powers of the πράκτωρ ξενικῶν both real and personal. A πρόσταγμα issued by king Euergetes exempted from personal execution royal farmers and ὑποτελεῖς and others whom the previously issued forbid to be brought up for accusation<sup>54</sup>. A decree of Euergetes II seems to prohibit the pledging of valuable objects belonging to the temples<sup>55</sup>; another decree of Euergetes II exempted agricultural and industrial implements<sup>56</sup>. Whether these προστάγματα were still in force in the Roman period — we are not able to establish.

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<sup>54</sup> Cf. Tebt. 5 = M. Chr. 36 (v. 221—230) (118 B.C.).

<sup>55</sup> Cf. Tebt. 699 (v. 13) (153—143 B.C.).

<sup>56</sup> Cf. Tebt. 5 = M. Chr. 36 (v. 231—247) (118 B.C.).