Monastic Wills: The Continuation of Late Roman Legal Tradition?

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This chapter examines wills composed in Egypt shortly before and after the Arab conquest, which, with one Greek exception, are written in Coptic. This includes wills that involve monks, but we will not restrict our discussion to wills written in a monastic context, as they do not essentially differ from the ones written by lay people. We will discuss the changes that the testamentary model underwent at the end of the Byzantine period in Egypt, to highlight new elements which entered wills in this period, and show how some patterns of testamentary practice survived into the post-conquest period. To do this, we examine Coptic (in the sense of the language) testamentary practice, illustrating the steps one had to undertake in order to complete a valid will, and the extent to which these steps differed in comparison to the time before the Arab conquest. By investigating the differences and similarities in legal and notarial/scribal practices in Egypt before and after the Arab conquest, as well as ways of legal transmission, we may assess whether elements of Roman testamentary law were transmitted into Coptic testamentary practices via patterns and scribes applying them, or as an effect of learned application of Roman institutions.

Introduction: Wills in Late Roman Law

Before discussing the changes of the testamentary model at the end of antiquity, a word of introduction on testaments in Roman and Byzantine Egypt is

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1 P. Lond. i 77, p. 231.
2 The main corpus to illustrate this phenomenon are the wills from Jeme: P. KRU 65–77; see also CPR IV 177, O. Crum ST 56 and 60, O. Crum VC 5, P. Ryl.Copt. 462.
necessary. From the beginning of the Roman period two parallel models of wills existed in Egypt: a Roman one, applied and enforced for Roman citizens; and a non-Roman one, applicable for other inhabitants of the province. These two forms of testament differed in both the requirements necessary for their efficacy and the documentary pattern applied.

A Roman will had to be composed in Latin and, as in any solemn act, some requirements had to be fulfilled during its composition. The content of a Roman will was also regulated by Roman law. The model of will used by non-Romans in Roman Egypt is attested already in the third century BCE, and was initially used almost exclusively by Greek immigrants. Its model was very different from the Roman one, as were the requirements regarding the composition of wills.

The situation had to change after the Constitutio Antoniniana in c. 212 CE: since almost all inhabitants of the Empire became Roman citizens, no separate form for non-Romans was needed anymore. This is the reason why a very formal and somewhat unintuitive Roman will (now an obligatory testamentary form for anyone) started evolving under the influence of local practice. The first step in this change was an imperial concession to compose wills also in Greek. The process started with Caracalla’s edict, resulting in the evolution of both new

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5 See, however, _P. Mosc._ 123 (Panopolis, 69 BCE), which is a Demotic text based on the Greek testamentary model; J.M. Modrzejewski, _Droit et justice dans le monde grec et hellénistique_ (Warsaw, 2011), p. 374.
