Conference 'The Language of Law in Ancient Documents: Transformation and Continuity of Legal Formulae in Diachronic and Geographic Perspective' (Leiden, 22-24 November 2018)

Hiring and Buying a Donkey in Pharaonic Egypt
Shafik Allam

Texts and depictions from Pharaonic Egypt reveal that donkeys played a substantial role in the daily life of the people; the animals were used as means of transport and as tools while cultivating the land. Though donkeys were so common in everyday life, scientific attention was hardly devoted to them, till recently – when written documents came up giving us an insight into the dealings of people who legally engaged over donkeys.

Pertinent texts came down to us from the community of workmen at *Deir-el-Medineh* (in Thebes-west) during the 13th-12th centuries BC. They clearly show donkeys being hired out for work during a limited period or being sold through changing hands of the persons in question. Hiring a donkey or buying it entailed namely not only handing over the payment which the interested persons negotiated beforehand. Legal responsibilities were equally at issue, as different clauses were to be agreed upon regarding the liability of each partner. Furthermore, court minutes attest to many conflicts arising between the interested persons, who eventually went to law seeking to settle their difference by means of a court decision.

Bürgerrechtskonstitutionen der römischen Kaiser:
Änderungen in Formular und Inhalt von Claudius bis zum Beginn des 4. Jh.
Werner Eck

Von den Erlassen der römischen Kaiser vor der Spätantike gibt es kein erhaltenes Corpus. Es sind jeweils nur einzelne durch den Zufall der Überlieferung bekannt geworden. Lediglich die Bürgerrechtskonstitutionen der Zeit von Claudius bis zur Mitte des 3. Jh. (mit einigen Nachzüglern am Beginn des 4. Jh.) sind uns als serielle Quellen erhalten, in denen die Entwicklung von Inhalt und Formular, partiell auch in Verbindung mit der allgemeinen politischen Entwicklung und in Abhängigkeit von der Persönlichkeit einzelner Kaiser erkannt werden können. Der Vortrag soll die generellen Aussagen, die Veränderungen im Formular und die ermittelbaren Gründe analysieren.

Different Styles in Roman Legal Texts
Boudewijn Sirks

The Republican style of laws is the Imperativus Futuri or II. But this changed with the coming of the Principate and its different ways of legislating. The bulk of the legislative texts of that period we find in Justinian's Code as rescripts, copied from the Gregorian and Hermogenian Code; and in the form of epistolae in the Theodosian Code, collected from 311 onwards. It seems as if there is a shift in the style

of the imperial Chancery with Constantine, which is suggested by the different styles of the rescripts and the epistolae. But that is a fata morgana. The emperors of course issued rescripts after Diocletian, and they certainly wrote letters before Constantine. It is just the nature of the constituting collections which suggest such a shift. The rescripts were drafted by the bureau a libellis, the Theodosian constitutions, epistolae, by the bureau ab epistulis and addressed to imperial functionaries, often high functionaries. Each had its own style and both existed next to each other before, under and after Diocletian. Vernay pointed at the bureaux, but it was the nature of the replies that determined their style. What also influenced this was that the amount of petitions must have been enormous, not only those to the emperor, but also those to the provincial governors and the prefects. A short reply would then have been the only way to handle this. The constitutions of the Later Empire, as the edicts, followed the current elaborate literary style. As to other legal writings, viz. those by jurists, here the envisaged audience decided which style would be used. They acquired legislative authority in the fourth century.

Greek Legal Formulae and Roman Law:
A Case Study on Dig. 17.1.60.4 (Scaev. 1. *Resp*.)
Quintijn Mauer

The language of Greek documentary texts in the Roman Digest, especially in texts from the second and third century AD jurists C. Scaevola, Paulus and Modestinus, often contain reminiscences of the documentary praxis as perceived from Ptolemaic and Roman Egypt. The usage and change of different legal formulae in Greek documentary praxis and Roman law and the implications thereof is highlighted via a *responsum* by Scaevola found in Dig. 17.1.60.4 (Scaev. 1. *Resp*.). In this contract of *mandatum*, in specific *procuratio omnium bonorum*, Scaevola sheds Roman legal light on this purely Roman institution, which in this case had been constituted via a Greek document in the Roman East, presumably by Roman citizens.

Legal Transplants and Institutional Translations
José Luis Alonso

The notion of "legal transplants" has enjoyed a notable success among legal historians to characterize the diffusion of legal institutions and their adoption within a foreign legal tradition. A connected, but subtler, phenomenon, that I propose to label as "institutional translations" appears in situations of legal pluralism, particularly when some of the legal traditions present in society are alien to the dominant social group, and therefore also to the jurisdictional power. The courts, then, when confronted with a foreign legal institution, may, in the rare cases when there is truly no equivalent within their own system, merely reject it, depriving it of any effect; occasionally, though, they find a path for the recognition of the foreign institution: making it effective by boldly extending to it their own categories, despite the fact that these are equally alien to the legal tradition to which the institution in question belongs. Conversely, the dominant legal system may adopt a foreign legal category among those present in the local traditions in order to enforce its own institutions.

Traces of both phenomena can be found in the Ancient legal experience. The examples discussed will be taken from Ptolemaic and Roman Egypt: quite idiosyncratic marriage arrangements common among native Egyptians retained their validity under Ptolemaic rule, when the Ptolemaic courts stretched to them certain categories that belonged entirely to the Greek tradition; remarkably, these same categories would later be used by the Roman administration to enforce Roman fiscal privileges. Thus, a legal notion attached to certain specific situations within its own legal tradition, its made serve entirely different purposes in the context of an entirely different legal tradition.

Pitiful Language: Formulae Stressing Vulnerability in Petitions from Graeco-Roman Egypt
Gert Baetens

Petitions constitute one of the best-represented types of legal documents from Graeco-Roman Egypt and offer an interesting perspective on Ptolemaic and Roman legal language. Despite being styled as personal entreaties regarding personal difficulties, petitions are highly formulaic texts that employ a variety of fixed themes and expressions. This paper will examine continuities and transformations of rhetorical language in Graeco-Roman petitions by means of a case study on formulas stressing the petitioner's vulnerability.

On the Making of Legal Formulae:
Scholastic Influence on the Early Cuneiform Legal Tradition
Stephen Moore

The remarkable spread of Mesopotamian legal register, and its relative uniformity, cannot be explained without reference to scribal training and scribal texts. Scribes were drilled on how to write clauses, contracts of all kinds, and litigation records. Central to this training was a hybrid school text: so-called phrasebooks containing lists of legal formulae and embedded casuistic scenarios. By means of a new exemplar of one such phrasebook, the role of the scholastic tradition in Mesopotamian legal practice in the period c.2000-1600 B.C. is re-assessed. Instead of a tradition removed from everyday legal practice, the legal texts of the curriculum are found to show a strong bond to the living common law tradition. Tracking the scribes' textual, and social dominance of legal forms in everyday practice also opens up a new perspective on an older question: how to classify the most prominent sources of the Mesopotamian legal corpus, the royal law collections.

Marrying Abroad: A Comparative Study of the Jewish Marriage Contracts
from Elephantine and Babylonian Marriage Contracts Containing Judeans
Ruwan van der Iest

A wedding day is often seen as one of the most precious days in one's life. It is a day of festivities, shared with family and friends, celebrated according to one's own preferences and (religious) customs. However, when marrying abroad, people might have to adapt their customs to those of the government of the country they moved to. This paper is concerned with studying marriage contracts from two different areas: Egypt and Mesopotamia. The first group of texts are marriage contracts

from two Jewish family archives. The texts give us first-hand insight into how marriage was conducted in the Jewish community in Elephantine. Could they adhere to their own law? Or did they follow Egyptian law? The second group of texts consists of marriage contracts drawn up in Mesopotamia. The five contracts contain the marriages of Jews, or Jewish witnesses, drawn up in Akkadian according to the Babylonian format. These contracts will serve as comparative material to the Elephantine documents, to discover how Jewish marriage differed in the ancient world and how the contents of the contracts can be explained through the legal context in which they were composed. To ultimate goal of this paper is to shed new light on the truly Jewish elements present in the ancient contracts.

The Demotic Legal Manuals - Or Codes - Or Recueils - Or Commentaries - Or Case Laws?
Does Modern Terminology Help or Hinder Us in Interpreting These Texts?
Cary J. Martin

In the 1938–1939 season a remarkable demotic papyrus was discovered during the excavations of Cairo University at Tuna el-Gebel in Middle Egypt. A combination of its poor state of preservation and, at the time, its unparalleled content meant that it was not until 1975 that a first publication appeared. This was titled "The Hermopolis Legal Code". Almost immediately the appropriateness of the phrase "Legal Code" was questioned. Subsequent editors have suggested instead that it should be called a "Legal Manual", a "Recueil", a "Commentary", "A Commentary on Exceptional Regulations", a "Manual of Customary Law" or a "Collection of Case Laws", but equally others have argued the case for retaining the classification "Codex". Despite the identification and publication of similar albeit equally fragmentary papyri, including a Greek version, there is still no consensus on how these texts should be categorised. The purpose of this paper is to look at their structure and content and asks the question whether our own legal systems based on Civil Law (Continental Europe) or Customary Law (UK and USA) help or hinder us in interpreting them.

Asking for Justice in Coptic
Alain Delattre

The paper will focus on the first petition known in Coptic (SB Kopt. IV 1709). The text was published in 1938 by W. Till, but its nature was misinterpreted. The new edition that will be provided by J.-L. Fournet and myself allows assessing the value of the document in the history of law and the sociolinguistics of Byzantine Egypt. Some contemporary and later documents will then be presented and I will show to what extent and in which circumstances Coptic could have been used by people asking for justice and more generally in legal documents under Byzantine and Islamic rule.

Demotic Marital Property Settlements: The Language of Egyptian Marriage Law
Steffie van Gompel

Demotic marital property settlements form a peculiar subtype of Demotic legal deeds. Originally classified by Pestman into three main types, based on the type of clauses used and the direction of payments recorded in them, these types seemed to reflect regional differences in scribal practice or

marriage practice, or both. More recently published material presents to us deeds with new combinations of clauses which do not fit Pestman's types well – this suggests that there was a greater regional variety in marriage documents than considered before. How much these texts reflected unique local marriage customs, or simply local preferences in contract type and format, remains to be determined.

Illegitimate or Fatherless?
Illegitimate Children in Papyri, Roman Law Sources, and Inscriptions
Maria Nowak

In this paper, I will present results of my investigation on ways of describing persons who in scholarly literature are classified as illegitimate or extramarital children. Confronting papyrological sources with Roman law and inscriptions, I will try to establish whether the meaning of the terms spurius, naturalis and ἀπάτωρ was fixed or perhaps depended on the context of their application. This ultimately will help understand the relation between the terms and bring us closer to defining illegitimacy in the Roman world before Constantine the Great.

Linguistic Change and the Formulation of Legal Formulae in Greek Papyri
Joanne Stolk

The language of the law – both ancient and modern – is highly standardized and formulaic phrases play a significant role in the construction of legal documents. Due to the long life of these orthographically, lexically and grammatically specified phrases, their linguistic characteristics may become increasingly irregular with respect to the contemporary spoken language. Still, the formulation of legal texts is expected to be based on prefabricated formulae rather than being subject to ongoing changes in the grammar of the language of the scribe. Contrary to the above expectations, synchronic and diachronic variation is attested in legal formulae in papyri. Diachronic phraseological variation might be caused by historical changes in the function and use of the documents as well as influences from the spoken language on the conservative language of the formulaic phrases. I will show how several linguistic changes in phonology and morphosyntax become incorporated during processes of standardization and change in legal formulae in Greek papyrus documents.

Dioskoros' Legal Latin
Jakub Urbanik

A bulk of the Dioscorean papyri is constituted by legal deeds. In a number of them (especially wills, settlements of claims, divorce papers, but also contracts) there appear Latinisms which the notary must have learnt during his legal training. In my proposed paper I would aim at presenting the patterns in which Latin legal formulae and expressions are transcribed into the language of the Greek papyri of Byzantine Egypt, having sketched the parallel usages of the earlier epochs. I will discuss and analyze some of them prominent examples, making them into case-studies (such as P. Hamb. 23, a lease

contract). The conclusions may allow for a better understanding of late Antiquity legal training in the Greek-speaking world.

How the Language of Law Changed Almost Overnight in 6th Century BCE Thebes
Koen Donker van Heel

In the early Late Period in Egypt (c. 664-332 BCE) a truly remarkable change took place in the legal language used in the south of Egypt. At the beginning of this period the country was actually a patchwork of more or less independent (and sometimes competing) kingdoms and principalities. After king Psamtik I of the 26th Saite dynasty in the Delta in c. 664 BCE came to power and managed to accomplish the subsequent reunification of the country several years later, he and his successors seem to have set out on a course of drastic administrative reforms. As a direct result, the cursive script used in the administrative, legal and business offices in the south – Abnormal Hieratic – was gradually replaced by the cursive script that had developed in the Delta – Demotic – which was to become the new language of law and administration. From the point of view of legal precision this may actually have been a blessing in disguise, because Demotic was a superior vehicle in all respects. The keyword here seems to have been standardisation all round.