BOOK REVIEWS


The decision of Professor Lipsius to meet the demand for a second revision of Der attische Process by compiling a new work was amply justified by the circumstances. The new material was too extensive and varied to be included without destroying the identity of the original work. Not only was it desirable to add a complete discussion of the criminal courts, as Schömann had hoped to do, but it was necessary to make many important changes and additions, owing to the discovery of Aristotle's Constitution of Athens, which, besides furnishing a large body of new material, has inspired a number of important monographs and articles. Nevertheless few will witness without regret the passing of a work which for three-quarters of a century "sich als der zuverlässigste Führer zur Kenntniss des attischen Rechts und Gerichtswesens bewährt hat" (Lipsius).

The first instalment of the work which promises to be a worthy successor of Der attische Process opens with a historical sketch of the administration of justice in Greece. The succeeding chapters deal with the magistrates, the courts and courthouses, the arbitrators, and the judicial functions of the senate and the assembly.

It is obvious that no arrangement can be devised that would not to some extent involve a divided treatment of a number of topics. Still one cannot but feel that the book might have been considerably improved had the author begun with a classification and description of suits, rather than with an account of the officials charged with the oversight of the processes of litigation. The author's practice of referring to other books and articles for fuller information or proof, instead of giving brief summaries, is not always to be commended. For example, he might well have passed in rapid review (p. 4) the principal theories regarding the significance of the celebrated trial-scene depicted on the shield of Achilles, instead of simply referring to his own exhaustive article in the Leipziger Studien (1890, pp. 225 ff.). However, his interpretation of the passage is excellent. He believes that the dispute concerns only the alleged payment of a sum of money agreed upon as compensation for a homicide. The two talents in question have been "paid into court" by
the defendant and are to be surrendered to whichever party wins the decision of the arbitrator. The reader is left in some doubt as to the author's opinion regarding the identity of the arbitrator, but surely Gilbert is right in identifying him with the king, who in this as in other situations is aided by his council. If this explanation, which is the only one that accords fully with Greek legal procedure as we know it, is not right, it is idle to attempt to solve the puzzle.

Since the publication of this book, Thalheim (Hermes CXL, pp. 152 ff.) has shown quite convincingly that the contention (p. 222) that the decision of a private arbitrator was not legally binding, unless given under oath, is not sustained by the proofs offered. Lipsius reiterates (p. 228) his previously expressed view (Ber. d. Säch. Ges. d. Wiss. 1891, p. 58) that practically all private suits had to come before a public arbitrator. If this is so it is difficult to understand how in some private suits new evidence could be adduced on the day of trial (cf. Isaeus viii. 42; ix. 18). Aristotle's statements on this point need to be more thoroughly tested by an examination of the extant speeches. The chapter on the method of selecting and assigning the jurymen is particularly successful. Not only has the author made full use of Aristotle's somewhat obscure account of the procedure of his own day, but he has skilfully pieced together the meager evidence that bears upon the practice of the time of Aristophanes.

In conclusion I should like to express the hope that an index of passages cited from the Orators will be added to the completed work.

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The main conclusions of this extremely careful essay are as follows: Babylonian and Assyrian art invented certain closely related symbols for the thunderbolt, adapting for the purpose the conventional means of expressing fire. One of these symbols was taken over by Greek art about the seventh century B.C., and was at once variously modified under the influence of the conception of the lightning as a flower. Of the new forms thus created three belong to Ionia and the adjacent regions of Hellas, two to Greece proper. With the fading-out of the flower-notion further modifications set in. Wings were sometimes added, flames were naturalistically represented, and, above all, the notion of the thunderbolt as a weapon became dominant. The multifarious forms which thus arose are well represented in the four plates accompanying the essay.

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