

ESTRATTO

SCRITTI IN ONORE

DI

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## End of a Sale Contract

The Yale papyrus published here is only the bottom part of what was originally a rather large document. What is preserved is the signatures of three witnesses; and of this the right-hand third, containing some twenty letters, is missing. The signatures are nonetheless not without several points of interest and perhaps an appropriate, if modest, offering to one who has devoted so much patient labor to the fruitful study of sales in the papyri<sup>1</sup>.

Unless a notarial mark is lost in its entirety at the lower right (which I do not think likely), the text is the end of a private witness-contract rather than of a notarial deed. The presence of three witnesses at least (more may be lost at the top) places this papyrus in a well-known type discussed at length by H. J. Wolff<sup>2</sup>. The formula includes the statement by each witness that he testifies to having heard the parties execute the contract as it is set out in the document, and that he has witnessed the payment of the money involved in the transactions (the amount is not given). Wolff argues that the testimony to the act of executing the contract is of primary importance, that to the payment only secondary. Our papyrus is unusual in not being a notarial deed.

No date is preserved. The handwriting points to a date in the first half of the sixth century. The formula, which is a novelty of the later fifth century (Wolff cites SPP XX, 128, of A. D. 487, as one of the earliest examples) and is common in the sixth

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<sup>1</sup> For bibliography, see O. MONTEVECCHI, *La papirologia*, Torino 1973, pp. 209-13.

<sup>2</sup> *Die byzantinische Urkundenstil Aegyptens im Lichte der Funde von Nessana und Dura*, "RIDA", 3<sup>e</sup> sér., VIII (1961), pp. 115-54, at pp. 126-34, with references and earlier bibliography. There was no standard number of witnesses.

century, agrees with this date. As to provenance, no information is preserved. Wolff points out that the formula is scarcely found in the Arsinoite and Oxyrhynchite Nomes, while it is common in Upper Egypt. The latter region thus seems like the most likely provenance<sup>3</sup>. The formula itself, however, is found also at Nessana, and Wolff argues convincingly that it is not of Egyptian origin but, rather, reflects the growth of the influence of Constantinople on notarial practice throughout the empire.

P. Yale inv. 845

17.2 x 12.4 cm.

First half of VIp  
Upper Egypt?

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- [.....] ..... [± 27 τῆς ἁγίας]  
καθολικῆς ἐκκλησίας, υἱ[ὸ]ς τ[οῦ] μακαρίου - ± 20 - ]  
† μαρτυρῶ ταύτη τῇ πράσι ἀκού[σ]ας π[α]ρὰ Φοιβάμμωνος καὶ  
- ± 9 - ]
- 4 τῆς αὐτοῦ θείας τῶν [τα]ύτην θεμένων ὡς [πρόκειται· μαρτυρῶ  
δὲ καὶ τῇ]  
καταβολῇ τοῦ χρυσοῦ γενναμένη ἐπ' αὐτῶ[ν]. † (2nd hand)  
- ± 20 - ]  
μαρτυρῶ ταύτη τῇ πράσει ἀκού[σ]ας π[α]ρὰ Φοιβάμμων[ος καὶ  
..... τῆς αὐτοῦ θείας τῶν ταύτην]  
θεμένον ὡς πρόκ[ε]ιται· μαρτυ[ρῶ] δὲ καὶ τῇ καταβολῇ τ[οῦ]  
χρυσίου γενναμένη ἐπ' αὐτῶν.]
- 8 (3rd hand) † Ἀφουῆς διάκ(ονος) τῆς ἁγίας κ[α]θολικῆς  
ἐκκλησι[ίας] - ± 12 - μαρτυρῶ]  
ταύτη τῇ πλάσι ἀκού[σ]ας π[α]ρὰ Φοιβάμμ[ωνος καὶ ± 7 τῆς  
αὐτοῦ]  
θείας τῶν ταύτην θεμένων ὡς πρόκειται· [μαρτυρῶ δὲ καὶ τῇ  
καταβολῇ]  
τοῦ χρυσοῦ γενναμένη ἐπ' αὐτῶν. [

3,9 πράσει 4,10 θείας 4 τῶν 7 θεμένων 10 πρόκειται

<sup>3</sup> SPP XX, 128 is Arsinoite, but the formula does not recur in the Arsinoite Nome until 580, and then lacks ἀκούσας.

... [of the holy] catholic church, son of the [late ---], †, witness to this sale having heard declarations from [Phoibammon and ---] his aunt, the parties executing it as [aforesaid. And I witness also to the] payment of the money which has taken place in their presence. [(M2) I, ---,] witness to this sale having heard declarations from Phoibammon [and --- his aunt, the] parties executing [it] as aforesaid. And I witness also to the payment of the [money which has taken place in their presence.] † I, Aphouas, deacon of the holy catholic church [--- witness] to this sale, having heard declarations from Phoibammon [and - - - his] aunt, the parties executing it as aforesaid. [And I witness also to the payment] of the money which has taken place in their presence. †

1, 8 *ἀγία καθολικὴ ἐκκλησία*: E. WIPSZYCKA, *Les ressources et les activités économiques des églises en Égypte du IV<sup>e</sup> au VII<sup>e</sup> siècle* (Pap. Brux., 10), Bruxelles 1972, pp. 25-26, distinguishes two types of 'catholic' churches, (a) the seat of a bishop of a metropolis, and (b) a general 'parish' church elsewhere, as opposed to private churches or non-parish churches, under episcopal authority or not. E.R. HARDY, "Ann. Inst. Phil. Hist. Orient. Slav.", VII (1939-44), p. 139, provides a somewhat divergent view.

3 Crosses are mostly placed before or after names, or at the start or end of an entire sentence, but one occurs right before *μαρτυρῶ* in P. Mich. XIII, 667, l. 47. For examples of the *ἀκούσας* formula, see *WB*, I, 47 and IV, 73. There are many examples in P. Mich. XIII (e.g. 659, l. 306 ff.). In most cases, the names of the party or parties are omitted, but cf. e.g. P. Oxy. XVI, 1901, where they are included.

4 *θεμένων*: most contracts are acknowledgements by one party, and the singular *θεμένου* (-ης) is found; this sale was evidently a two-party contract. Perhaps, considering that one party is the aunt of the other, the sale and payment resolved a family dispute. (Cf. P. Cair. Masp. II, 67154 for such a usage of the plural.) The example of the sale in P. Mich. XIII, 662, however, where one witness uses the singular and two the plural (lines 70 ff.) should caution us against undue reliance on the exactitude of witness formulas (cf. WOLFF, *op. cit.*, pp. 130-31 and n. 37).

5 καταβολή means here simply 'payment', not 'installment' (a common meaning in Byzantine papyri, cf. *WB*, I, 743-44). There are numerous parallels in *P. Mich. XIII*, but these, unlike ours, give the amount of the payment.

9 πλάσι: for  $\rho > \lambda$  see F. T. GIGNAC, *A Grammar of the Greek Papyri of the Roman and Byzantine Periods*, I, Milano 1976, p. 105, citing especially πλάση in *SB VI*, 8987, l. 47 (Oxyrhynchos, 644/5p). The exchange is characteristically Fayumic, but not at all limited to that area.

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