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Roger S. Bagnall

### **A VINEYARD IN THE SMALL OASIS: WHAT WAS THE DISPUTE ABOUT?**

A DOCUMENT DRAWN UP on behalf of a centurion in the garrison of the Small Oasis in A.D. 364 contains his agreement to terms, now almost entirely lost, by which a dispute with relatives of his deceased wife was settled. The papyrus, P. Mich. inv. 4008, was published by Traianos Gagos and the late P. J. Sijpesteijn in *ZPE* 105 (1995), pp. 245–252 (with Tafel VI); the text is reprinted as *SB XXII* 15768. The editors describe it as “the latest in date to come from the Small Oasis”; the papyrus was actually found, like almost all documentary material concerning the Bahariya Oasis, in Oxyrhynchos, in this case via the dealer M. Nahman, from whom it was acquired in 1925.<sup>1</sup> That the beneficiaries of the document, except for one, did not live in the Oasis and had to come there for the settlement is in fact shown by line 16, ὑμῶν παραχινομένων ἐπὶ τὴν Ὀασιν. (The precise reference of this phrase is discussed below.) Presumably one of the parties took this copy back to Oxyrhynchos.

The editors discuss in their introduction and notes the difficulties involved in understanding just what the dispute was about. The difficulty comes in large part from the loss of one panel at left along a vertical fold line, carrying some 7–8 letters<sup>2</sup> at the start of each line, plus the bottom

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<sup>1</sup> This information is available in the online record available through APIS.

<sup>2</sup> Probably only 6 letters in lines 8 and 13 (where αἶρ]οῦντος was undoubtedly spelled ἐρ]οῦντος as in line 17; certainly 9 letters in line 15, and probably also in line 11, cf. below.

half of the original sheet containing most of the terms that the centurion agreed to (the preserved height is 14.5 cm, and the papyrus was presumably broken along a middle horizontal fold). The editors express satisfaction with the solutions they arrived at for the nature of the dispute and its settlement, but these seem to me to leave a number of serious difficulties, both substantive and grammatical. As they do not appear to have elicited any discussion since the publication, it seems worthwhile to reexamine them.

The editors' text is the following:

[ὑπατεία]ς ἑτῶν δεσποτῶν ἤ]μῶν Ἰουουινια[οῦ] αἰωνίου Αὐγούστου  
τὸ αS//

[καὶ O]ὑαρρωνιανοῦ τοῦ ἐπιφανεστάτου.

[Φλάουιο]ς Λαλάχιος (ἐκατοντάρχη) κάστρων Ὀάσεως Μικρᾶς

4 [καταμένω]ν ἐν τῇ αὐτῇ Ὀάσει Φλαυίω Λαλάχῳ (ἐκατοντάρχη) τῶν  
αὐτῶν

[κάστρων] καὶ Αὐρηλίῳ Πελίῳ καὶ Κανώπῳ καὶ τοῖς λυποῖς υἱοῖς

[καὶ .....]ωνίῳ διὰ τῶν ὑπογραφόντων χαίρειν. ἐπειδὴ

[Αὐρηλία (.)]..ις θυγάτηρ Ἰ(ερέως ἢ γενναμένη μου γυνὴ συγγε-

8 [νήξ ὑμῶ]ν τυγχάνουσα τελευτῶν μέλλουσα κατέλειψεν

[μοι τὸ ἀμ]πελικὸν χωρίον ἐν ἐποικίῳ Μούμψα καὶ τὰς ὑποστελ-  
[λούσας αὐτῶ] γᾶς καὶ ὕδατα καὶ παντοῖα φυτὰ καὶ ἀναδεξάμενον

[.....] βS// ἰνδικ(τίωνος), ἐπὶ δὲ τῆς ζS// ἰνδικ(τίωνος) ἡμφισβητή-  
σατε πρὸς

12 [με τὸν Λαλά]χιον ὡς περισσοτέρου ἀρουρηδοῦ ἐπιτεθέντος ὑμῖν

[ἢ τοῦ αἱρ]οῦντος τῷ ὀνόματι τοῦ πατρὸς αὐτῆς Ἰερέως Ἀμμων( ),

[ἐλθόντων] ὑμῶν εἰς διάλυσιν ὁμολογῶ ὁμνύμενος τὸν παν-

[τοκράτορα] θεὸν καὶ τὴν εὐσέβειαν τοῦ δεσπότη ἡμῶν αἰωνίου

16 [Αὐγ(ούστου) Ἰουου]ινιανοῦ ὑμῶν παραχνομένων ἐπὶ τὴν Ὀασιν

[ἐλθεῖν π]ρὸς ἀκριβῆ λόγον τὸ αἱροῦν αὐτῷ τῷ ὀνόματι ἐν ἐπι-

[νεμήσει ὅ]σου ἐστὶν ἀρουρηδοῦ ἀκολούθως κήνσω καὶ εἴ τι φα-

[νήσεται ]ω κινδύ[νω] . [...].ων ἡμῶν ἐπιγνώναι

The first substantial difficulty comes with the interpretation of the list of the addressees of the document in lines 4-6. The editors comment, "Because of the way this section is phrased it is hard to establish (1) how many

individuals there are in the party of Lalachos, and (2) what the exact relationship is between all these individuals. Part of the problem is created by the unclarity of the expression *καὶ τοῖς λυποῖς υἱοῖς*. Are they the sons of Pelios or of Lalachos? Is Pelios a brother or a son of Lalachos?" In fact neither of the first two suggestions is grammatically possible. Lalachos is listed first and separately because he is a Flavius, but he is in a parallel position to Pelios, Kanopos, and the others, the Aurelii. It must follow that all of them are the son of the same person. That person can only be the individual mentioned in the lacuna at the start of line 6, the end of whose name appears to stand at the start of the preserved portion. The editors presumably did not consider this possibility because of the omega at the end of the preserved letters, and of course one must acknowledge the awkwardness of requiring a scribal error close to a lacuna. All the same, we do know from line 13 that the father of Lalachios' deceased wife was named Hiereus son of Ammon( ), and it does not take much of a stretch to recognize his patronymic as Ammonios, then to suppose that the remains in line 6, ]ωνίω, are to be restored as the end of this name,<sup>3</sup> mistakenly with omega instead of ου.<sup>4</sup> If that is correct, the recipients of this document are the brothers of Hiereus and the uncles of the late wife of Lalachios, and a much simpler family tree can be drawn than that given by the editors on p. 250.

The second major difficulty comes at the end of line 10 and the start of line 11. The editors write (note to line 10), "in the context, the subject of ἀναδεξάμενον is με. The construction anticipates the construction in lines 11-12." This conclusion, however, leads to difficulty with the lacuna in the following line. The editors note that if one plausibly restores ἐπὶ τῆς before the indiction number, "the remaining space in the lacuna hardly accommodates a finite verb on which the participle could depend." They on balance

<sup>3</sup> That would leave another 3-4 letters at the start of the lacuna to be filled, not enough for *Ἀβρήλιος* written in full, but sufficient for an abbreviation. The fact that the status designations are written in full in lines 3, 4, and 5 gives one pause, but the scribe abbreviates Ammon(ios) in line 13 without having abbreviated any previous names in the document, and the editors' restoration of line 16 requires *Ἀβγ(ούστου)* to be abbreviated, even though every other imperial name and title in the document, both in the dating clause at the start and in the oath, is written in full.

<sup>4</sup> This is a banal error; see F. T. GIGNAC, *A Grammar of the Greek Papyri of the Roman and Byzantine Periods I: Phonology* (Milan 1976), pp. 208-209.

prefer to restore *καὶ ἀναδεξάμενον* | [μὲν ἐπὶ τῆς] βS// ἰνδικτ(τίωνος) ἀμφισβήτησαται πρὸς | [μέ (as I would accent it), supposing that the antithesis “would balance the years of Lalachios’ accession to the property with the year of Lalachos’ complaint, not the syntactical construction (participle – finite verb).”

The problem obviously arises from the participial form *ἀναδεξάμενον*. Were it not for that, the construction could be understood simply as “my late wife left me (the property) in the 2nd indiction, but in the 7th indiction you raised a dispute.” In the lacuna one would restore simply [ἐπὶ μὲν τῆς], yielding a completely balanced construction. But what then are we to do with the participle? The answer, I believe, comes from looking at other descriptions of vineyard properties. Here are a few relevant parallels:

*P. Cair. Masp.* III 67300.8 (cf. 17): κτήμα ... σὺν λ[ά]κκ[ω] καὶ δεξαμ[εν]ῆ κ[α]ὶ φυτοῖς κ[α]ὶ [φ]ο[ίν]ιξι.

*P. Lond.* V 1694.8: γεώργιον ... σὺν λάκκω καὶ δεξαμενῆ καὶ φυτοῖς καὶ φοίνιξι κ(αὶ) παντὶ δικαίω.

*P. Lond.* V 1769.2-5: μέρος ἀπὸ ὀλοκλήρου(ν) χωρίου ἀμ[πελικού] ... σὺν διαφόροις φυτοῖς καὶ φοίνιξι καὶ ἐλαιῶσι καὶ καλαμίᾳ ... σὺν λάκκοις δυσι καὶ δεξαμενῆ καὶ [ξυλίνοι]ς ὄργανοις δυσι ἐξηρητισμένοις καὶ παντὶ δικαίω.

It is obvious enough that a reservoir, consistently described with the Greek word *dexamene*, is one of the standard elements of infrastructure that accompany a vineyard. With the sequence here — plots of land, wells, all of the plants — we may reasonably interpret *ἀναδεξάμενον* as part of this sequence of elements of the property rather than as an unconstruable participle referring to Lalachios. I cannot offer any parallel for the compound form, but the force of *ἀνά* is in no way inappropriate, and the simplex and compound verbs differ little in meaning. The neuter rather than feminine is also unique as far as I can see. Nonetheless, I think we must take the word to refer to a reservoir.

The nub of the dispute is reached in lines 12-13. The editors translate the grounds of the dispute as being “that a larger measurement in arourae were imposed upon you than was the proportionate share for the (registered) name of her father, Hiereus, son of Ammon( ).” It is from this understanding of the passage that they derive their view that “the central issue in the dispute arises from the distribution of the *epinemesis*, that is own-

erless or abandoned state land which was imposed on all farmers that owned land in the form of an attachment for compulsory cultivation." Now in fact, as they acknowledge, the term *epinemesis* appears in this text only by virtue of their restoration in line 18, but they argue that "the idea of imposed land is mentioned *dissertis verbis* (lines 12f.) and thus leaves little room to doubt the restoration." They do express surprise that five years elapsed before the action was launched, and they state a central puzzle as follows: "Why did the other party complain that more land was imposed upon them than was entered as obligation in the name of the father of Lalachios' wife? Did Lalachios rent or sell the land to Lalachos *cum suis*?" They answer this question in the negative, and are then led to devise an elaborate scenario to explain the inequitable distribution of compulsory cultivation.

On the alternative and much simpler reconstruction of family ties that I have suggested, this reconstruction becomes increasingly unattractive. Moreover, the interposition of *epinemesis* into the dispute remains inadequately grounded. Although this is never said expressly, it rests entirely on the words ἐπιτεθέντος ὑμῶν (line 12). Now it is a familiar phonetic phenomenon of the papyri of the Roman period that interchange of upsilon and eta caused the first and second person plural pronouns to sound the same, with the result that scribes frequently interchange them.<sup>5</sup> Even within a single document, a scribe may write the same form correctly once and incorrectly another time (cf., e.g., *BGU* I 15 ii.3 vs. 9 and II 668.2 vs 3). If we suppose that in this case ὑμῶν was written instead of a correct ἡμῶν, the complaint becomes far more straightforward. Vineyard property belonging to Ammonios had probably been divided among his sons; Hierus had passed his share on to his daughter,<sup>6</sup> and she in turn to her husband by her will. But the amount recorded on the official books in Lalachios' name from this inheritance exceeded — at least in the opinion of the brothers of Hierus — the share that had properly belonged to the latter and then passed to his daughter and finally to her surviving husband, Lalachios.

Another consideration supports this suggestion. The entire institution of compulsory assignment of state land has two aspects that consort poorly with the situation in this papyrus. One is that compulsory assignment be-

<sup>5</sup> GIGNAC, *Grammar*, p. 262.

<sup>6</sup> I would read the name in line 7 as ]ϣ rather than the editors' ]..ϣ.

longs to the world of the Nile valley, with its officially-defined body of supposedly cultivable land, and is out of place in the oases, where it was water sources, not arable land, that were the central element of agricultural productivity. The other is that the institution is consistently connected with arable land, not vineyards and garden land, which were private rather than public property because of the investment they required. The editors cite no evidence for the imposition of liability for the *epinemesis* on vineyards. Indeed, the entire scenario conjured up by the editors calls to mind the world of Fayyum villages like Karanis and Theadelphia in the fourth century, with their difficulties over irrigation and large amounts of grainland out of cultivation.<sup>7</sup> But there is no good reason to impose this vision of agricultural trouble on the world of the oases, which depended largely on tree crops rather than wheat. Bahariya today is indeed almost entirely devoted to tree crops.<sup>8</sup>

The question, then, is what meaning to attach to ἐπιτεθέντος in line 12, and what noun to restore in line 18 to complete ἐπι[ ]. (The obvious answer to the second question, because the passage in 17-18 is to a large extent a recapitulation of 12-13, is that a nominal form derived from ἐπιτίθημι would be an appropriate restoration, suited to the space,<sup>9</sup> but the obvious answer may not be the correct one. We shall return to this point momentarily.) The verb does not belong to the usual technical vocabulary of the admini-

<sup>7</sup> See most recently P. VAN MINNEN, "Deserted Villages," *BASP* 32 (1995), pp. 41-56.

<sup>8</sup> It is true that Kharga and Dakhla oases have more extensive arable cultivation than Bahariya, but this is the product of government insistence on self-sufficiency in wheat for the New Valley project. From the Kellis Account Book (*P. Kell.* IV G. 96) it is evident that wheat was grown in Dakhla in antiquity, but in fairly modest amounts for local consumption.

<sup>9</sup> The editors' restoration of ἐπι|νεμήσει is defended on 246 n. 1 with the statement that "The institution of *epinemesis* [sic] is introduced under Diocletian, but it is not a real administrative novelty. It existed already from the early Roman times onwards under different names known as *epimerismos* and *epibole*." For the latter they refer to G. Poethke's monograph *Epimerismos* (Brussels 1969), but for *epinemesis* they offer no citation of documents or bibliography. Probably the suggestion was based on the use of the term in the Isidoros archive, especially in *P. Cair. Isid.* 11, 12, and 41 (see the introduction to 12). This institution, however, is limited to the unproductive arable land on the edge of the Fayyum, and there is no basis for assuming it to have been applicable in other areas. The word normally refers to the tax indiction. A. C. JOHNSON and L. C. WEST, *Byzantine Egypt: Economic Studies* (Princeton 1949), pp. 268-69 and 307, suggest that in *P. Oxy.* XVI 2037 the term indicates a surtax of some kind.

stration or law of Roman Egypt; it is absent from Preisigke, *Fachwörter*, and there is no technical meaning to be attached to the active and passive forms of the verb. In some cases it has a distinct meaning of unwelcome imposition, as in the case of the ἀνάγκη imposed in SB XVI 12606.14, but in others the sense is more neutral. Examples are SB XIV 11608.8, where the editor renders ἐπιθείς with “nachdem du es hingegeben ... hast,” and *P. Haun.* II 16.14, τέλος ἐπιθεῖναι rendered by the editor as “put an end” (to business).<sup>10</sup> In the present case, the participle may mean nothing more than a neutral “attributed.” Even if has a stronger sense, however, the prefix ἐπι- most likely refers only to the excessive character of the amount of land ascribed to Lalachios in the register.

As to the nominal forms from ἐπιτίθημι, in the case of the commonest, ἐπιθῆμα, there is a technical meaning, “Übergebot” as Preisigke rendered it in *Fachwörter*; i.e., a higher bid for the rental of public land.<sup>11</sup> This cannot be involved in the present context. It is perhaps nonetheless conceivable that a nontechnical use of the word might be at stake. One could also consider ἐπι|[θέσει, which would fit the space well; but it is uncommon outside the group of instances in which it means “attack” or “aggression” (derived from the verb’s use in the middle). We may probably exclude ἐπιθήκη, a technical term in banking. None of these is thus a very good candidate.

Of possible words not derived from ἐπιτίθημι, ἐπιβολή may be excluded as a technical term used in the assignment of responsibility for taxation on additional public land only in the Arsinoite nome.<sup>12</sup> Likewise, ἐπιδοχή does not yield a suitable meaning, as lease does not appear to be relevant in this context. More attractive, both in sense and in length, would be ἐπι|[σκέ-ψιει]. In this event, what is measured would not be the excess but the correct size of the property, through a regular inspection. The obvious difficulty with this restoration is that it is then difficult to see why there is a reference to κήνσω immediately after it; this seems redundant.

<sup>10</sup> From the plate I judge that the editor’s dots are unnecessary.

<sup>11</sup> This is perhaps the sense in the several passages in *P. Pher.* (see index, p. 104), although the context in this property register is hardly transparent. Cf. the editors’ remarks, p. 80, note to line 132. On the nature of the register, see D. RATHBONE, *CR* 45 (1995), pp. 145–147 and D. HAGEDORN, *Gnomon* 69 (1997), pp. 39–46.

<sup>12</sup> See most recently J. ROWLANDSON, *Landowners and Tenants in Roman Egypt* (Oxford 1996), pp. 88–90.



Even apart from this problem, the contents of Lalachios' oath are less than clear. As the editors reconstruct it, he swears "that in your presence in the Oasis the proportionate share for this name in *epinemesis* of whatever is the measurement in arourae in accordance with the census has come to an accurate calculation ..." It would be surprising if this were correct and if τὸ αἰροῦν were, as the editors think, the grammatical subject of the restored verb. When people swear imperial oaths, they do so to give force to some assertion about *their own* actions, either that they have done something or that they will do something. They do not swear that a measurement has come to an accurate calculation. Lalachios must be swearing either that he has caused the extra amount of land listed on his account to be removed or adjusted, or that he will do so; or, if the word beginning in ἐπι- is in fact ἐπίσκεψις, and perhaps even if it is something else, he is swearing that he has caused or will cause the correct amount to be established through an inspection.

The lack of a definite article before κήνσω, which the editors noted (note to line 18), might mean that the reference is not (as they suppose) to "the regular census" nor indeed to any specific census at all, but to an indefinite one that has not yet taken place. There is good evidence for this usage of κήνσος and κηνσίτωρ. In *P. Oxy.* XLVI 3307.1, for example, the editor notes that the meaning appears to be as vague as "assessment" (note ad loc.). The reference to a measurement determined διὰ κήνσου in *P. Oxy.* LX 4091.15 occurs in a fragmentary context, but in a document concerned with the measurement of land in connection with transfer of ownership. *SB XII* 10909 iii.47-48 says ἐὰν δὲ καὶ ὁ κηνσίτωρ ὁ ἀποσταλεῖς ἐκμετρήσας εὖρη τι ὀλείγω πλέον φιλεργηθείσαν ὑφ' ἡμῶν ... , ("Even if the censitor who may be sent out should find, when he has done his measuring, that a bit more has been improved by us ...," as the editor translates it) showing clearly that the "census" in question is an ad hoc measurement, not a regular or universal census.<sup>13</sup> The issue at stake there, indeed, is much the same as what I have suggested is involved in Lalachios' settlement. If it is

<sup>13</sup> The editor remarks (p. 26, note to line 30) that technically speaking the official carrying out the measurement might more accurately have been described as an *anemetretes*, measuring changes since the great survey of 298-302. But it is obvious that as this census receded into the past, the terms could be used in everyday parlance for these follow-up acts of measurement.

correct to see such an operation here, Lalachios is swearing that he will do something at a future time when the beneficiaries of this settlement come to the Oasis, on the basis of measurement to be carried out then and perhaps even in their presence.

Can we establish just what it is that he is promising? A verb meaning “to bring” or “to reduce” (but *κουφιζέω* is too long) would seem to fit well enough, depending on our understanding of the passage; Lalachios would be undertaking to bring to an accurate accounting the amount pertaining to his account which is in excess of the amount that it is measured to be in accordance with the census. Such a construction would explain the genitive of [ὄ]σου (of comparison, effectively: the amount by which the assessment is more than it is measured at). Again, however, it is possible that instead he promises simply to bring the amount of land registered in his name to an accurate amount by means of inspection. If so, the genitive is simply recording quantity, as it often does. The lack of a good parallel seems to make any suggestion of a precise wording misleading in its specificity. The concluding fragmentary clause will then presumably be Lalachios’ undertaking of risk; there is no reason to suggest that the parties will bear this jointly; indeed, in the parallel the editors cite, ἡμῶν refers to the one party, not to both (just as, in my view, the plural pronoun does here in line 12).

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