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Note : P. Colt Inv. Nr. 13, 306 - release
from παραμονη

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NOTE

P. COLT INV. Nr. 13, 306 — RELEASE FROM ΠΑΡΑΜΟΝΗ*)

In *Magnes' Anniversary Book*¹ M. Schwabe comments a papyrus² which was found with some other documents by H. D. Colt³, the head of the Colt Expedition in the ruins of the town Auja Hafir⁴, South Palestine, in 1935—1936. The document being drawn up in Greek and Arabic by

*) The Author, my pupil, wrote this note without knowing the respective passage in Prof. W. L. Westermann's excellent essay (above, p. 9 ff.). Prof. W. L. Westermann and Dr. J. Falenciak both agree that P. Nessana (Colt) Inv. Nr. 13, 306 concerns a release from παραμονή. Nevertheless we decided to publish this note, as there is a difference between both Authors in the interpretation of this papyrus. While Prof. Westermann sees in this παραμονή a general service contract, Dr. Falenciak understands it as an antichretic παραμονή. In addition, Dr. F. tries to explain also the gift of 20 *solidi*, what was out of interest of the eminent American scholar (R. T.).

¹ Jerusalem, Hebrew University Press, 1938.

² According to the information of Prof. M. Schwabe, signed Inv. Nr. 13, 306 (Colt Papyri). Unfortunately I could obtain directly neither the commentary of Prof. M. Schwabe, nor the text itself. I made use only of the notes offered me by Prof. R. Taubenschlag and of the Greek text sent me by Prof. A. Berger, New York, to whom I may express my deepest gratitude. I don't know the Arabic version either. — From the formal viewpoint P. Colt 13, 306 reminds of the Greco-Egyptian χειρόγραφον in its degenerated Byzantine form, where the stipulation is styled subjectively in following words: ...και οὐδέν ἔχει (instead of ἔχη) πρὸς αὐτῷ Ἀλασουαδ χάριν τοῦ υἱοῦ τ[οῦ ἀβ]β[ῆ] Κοριν till ἵνα μηδὲς (inst. of μήδεεις) ἔχει: (inst. of ἔχη) πρὸς αὐτοῦ λόγον μίτε (inst. of μήτε) ἐγὼ Ἀλασ[ουαδ] μίτ[ε] (inst. of μήτε) εἰ κληρονόμοι: και διαδόχη μου (inst. of οἱ κληρονόμοι και διάδοχοί μου) — v. 7—10, see note¹¹ below, cf. Mitteis-Wilcken, *Grundzüge und Chrestomathie der Papyruskunde*, 1912, II, 1, p. 87.

³ Cf. C. J. Kraemer Jr., *The Colt Papyri from Palestine*, in *Actes du Ve Congrès International de Papyrologie, Oxford 30 Août — 3 Septembre 1937*, p. 238 ff.

⁴ The name used actually, was in those times Nessana or Nestana, see Kraemer, as above, p. 241.

the monk *abba* Georgius Victor's son⁵ a notary of the local monastery, was probably written in 687 A. D.⁶

Commenting this document M. Schwabe asserts that a monk *abba* Kyrin from the Christian⁷ monastic congregation in Auja Hafir emancipates his son, the slave of a certain El-Aswad-Ben-Adi, by paying 50 *solidi*⁸. Of this sum El-Aswad received however only 30 *solidi* in cash and forfeited 20 to the father⁹. Furthermore El-Aswad declared that Kyrin's son has the full right of movement and can go anywhere he pleases. This is followed by a statement¹⁰ of renunciation of all further claims by El-Aswad himself or his heirs and other successors¹¹.

The only witness of this deed was Sergius the son of Georgius Patricius' son¹².

⁵ P. Colt 13, 306 v. 10: Ἐγράφη χερῆ ἐμῆ (inst. of χειρὶ ἐμῇ) ἀββᾶ Γεωργίου Βίκτ[ο]ρ[ος] θ[ε]οκλήτου?...

⁶ As above, v. 11: μην(ός) Περιτίου ἰνδ(ικτίονος) ἐ' ἔτους κατὰ Ἐλουτην(ός) φῆα †

⁷ The document begins with the formula: [ἐν] ὀνόματι τοῦ θε[ο]ῦ — as above, v. 1. And the sign of the cross after the date.

⁸ As above, v. 2 f.: Ταῦτα τὰ ἐλυτρώσατο (inst. of ἐλυτρώσατο) ἀββᾶ Κυριν παρὰ Ἀλασουαδ β'. Ἀδῆ τὸν υἱὸν αὐτοῦ] εἰς νομίσμ[α]τ[α] πεντηκείοντα (inst. of πεντήκοντα).

⁹ As above, v. 3 ff: Ἐξ αὐτῶν (inst. of αὐτῶν) νομίσματα εἴκοσι ἐχαρίσα[το] ὁ Ἀλασουαδ τῷ ἀββᾶ Κυριν αὐτὰ καὶ τρίακοντα [νο]μίσματα (inst. of νομίσματα) ἐπλήρωσε] (inst. of ἐπλήρωσε) αὐτὰ ἀββᾶ Κυριν τῷ (inst. of τῷ) Ἀλασουαδ β' Ἀδῆ...

¹⁰ As above, v. 5 f.: καὶ ἐσεφώνησε (inst. of συνεφώνησε) ὁ Ἀλασουαδ β' Ἀδῆ [τῷ ἀββᾶ] Κυριν(ιν) διὰ τὸν υἱὸν αὐτοῦ.

¹¹ As above v. 6 ff: Ἐχ[ι] (inst. of ἔχῃ) ἐξο[υ]σίαν ὄπο[υ] θέλι (inst. of θέλι) ἡ ἔχ[ι] (inst. of ἔχῃ) ἐξο[υ]σίαν ὀποῦδάν ἀπελθῖν (inst. of ἀπελθεῖν) καὶ οὐδὲν ἔχ[ι] (inst. of ἔχῃ) πρὸς αὐτῷ Ἀλασουαδ χάριν τοῦ υἱοῦ τ[ο]ῦ ἀββᾶ Κυριν περὶ μικ[ροῦ] ἡ μεγάλου καὶ ἔχ[ι] (inst. of ἔχῃ) αὐτὸς πῆς (inst. of παῖς) ἐξουσία(ν) τὴν ψυχὴν αὐτοῦ ὀπ[ο]ῦδάν ἀπελθῖν, ἵνα μηδὲς (inst. of μηδεὶς) ἔχ[ι] (pro ἔχῃ) πρὸς αὐτοῦ λόγον μίτε (pro μήτε) ἐγὼ Ἀλα[σουαδ] μίτ[ε] εἰ κληρονόμοι καὶ διαδόχῃ μου. — See above, note 2.

¹² Σέργιος Γεωργίου τοῦ Πατρικίου μαρτυρῶ καθὼς ἀνοτέρο εἶρητε (inst. of καθὼς ἀνωτέρω εἶρηται), as above, v. 12. — The witness Sergius, the writer Georgius and *abba* Kyrin belonged to the congregation in Nessana-Auja (according to M. Schwabe). However it would not be advisable to be influenced by the actual conditions of the monasticism in the explanation of monastic relations in early Christianity, when the celibate was not obligatory for the monks. It results from Kraemer's notes, as above, p. 244, that the Christian convent in Nessana-Auja was unsimilar to an hermi-

According to M. Schwabe the document concerns a manumission *inter amicos*. M. Schwabe however is certainly wrong¹³, as the *manumissio inter amicos* even in its most degenerated form requires five witnesses, while in our document one witness only is to be found¹⁴. Furthermore a statement like ἐλεύθερος ἔστω or similar is missing.

The passage beginning with the phrase Ἐγὼ ἐξο[υσίαν] ὄπο[υ] θ[ε]λ[ω] etc.¹⁵ may help us to understand the real character of our papyrus. This passage shows that El-Aswad gives Kyrin's son the unrestricted right of movement and staying anywhere he pleases. This statement proves that the ἐξουσία of Kyrin's son had been till then restricted. And all restrictions of this kind are characteristic for s.c. παραμοναί¹⁶.

Thus the meaning of the document becomes clear. Evidently *abba* Kyrin had taken from El-Aswad an antichretic loan of 50 *solidi*, giving him his son in παραμονή¹⁷. Such agreements were in common use in the East.

Instead of selling the boy — a custom which though disapproved and strongly opposed by imperial law was as it seems still observed even after Justinian¹⁸ — the father Kyrin gave him in παραμονή to El-Aswad. In this way the young man did not become a slave but he lost only temporarily his right of movement, as one of his personal rights, included in the general idea of freedom¹⁹.

tage and its inhabitants to hermits. In P. Colt 15, 306 it is characteristic that only Kyrin and the scribe Georgius have the title of "abba" i. e. "father". The witness Sergius in spite of his Christian name is mentioned without this title. Generally only Kyrin and the notary Georgius belonged to the local congregation in the proper sense. The witness Sergius was not closely connected with it (M. Schwabe differently).

¹³ Prof. M. Schwabe remarks that P. Colt 15, 306 may also refer to a *manumissio per epistulam*. This is certainly wrong as the P. Colt 15, 306 represents in fact a bilateral agreement: one party releases the boy from a legal relation, the other pays for it.

¹⁴ See Just. Cod. 7, 6, 1, 1 c. and cf. Taubenschlag, *Geschichte der Rezeption des röm. Privatrechts in Ägypten* (Studi Bonfante, 1929), p. 384, and further: *The Law of Greco-Roman Egypt in the Light of the Papyri*, (1944), p. 74 f.

¹⁵ The full text above, note ¹¹.

¹⁶ ¹⁷ See Taubenschlag, *Law*, as above, p. 218⁷⁷.

¹⁸ Cf. Taubenschlag, *Law*, as above, pp 56 and 104.

¹⁹ See Taubenschlag, *Law*, as above, p. 218⁷⁷.

In our document the dissolution of that relation of dependency takes place. *Abba* Kyrin returned El-Aswad his loan and El-Aswad released Kyrin's son from the restrictions upon his right of movement²⁰. We may therefore characterize the document as a ἀπίλυσις from the παραμονή²¹.

As a result of his release from παραμονή Kyrin's son regained his right of movement. P. Colt 13, 306 just points it out in the words: Ἐγι ἐξο[υσίαν] ὄπο[υ]. θέλι etc.²².

Yet there is one question to be explained. What is namely the meaning of the gift 20 *solidi* conveyed by the creditor to the debtor?

M. Schwabe thinks that this gift may be explained as a sign of Arabic influence. According to Shaffi School it was prescribed that a part of the sum fixed had to be renounced, if a slave freed himself by payment of money²³. This principle had been probably practised originally, in other cases of emancipation too, until the School of Shaffi restricted it to the manumission by the slave himself. The case in P. Colt 13, 306, according to M. Schwabe, reflects the original conception.

Apart from the fact that this explanation is based on a hypothesis only, without any evidence, it cannot be taken by us into consideration, as this papyrus, as we showed, does not concern at all the emancipation from slavery. We must therefore explain it in another way.

El-Aswad gave Kyrin as a gift 20 *solidi* for rather economic reasons, f. i. because the boy had been exploited by an excessive work during the παραμονή. Thus El-Aswad obtained more than he had the right to obtain, and therefore he renounced a part of the loan.

It would be wrong to try to explain this renunciation by religious reasons, namely by El-Aswad's desire to exculpate

²⁰ The expression ἐλυτρόσατο (pro ἐλυτρόσατο) from P. Colt 13, 306 v. 2 does not mean there *redemit a servitute*, but generally "paid for release", cf. Preisigke. *Wörterbuch*, s. v. λυτρόω.

²¹ Cf. Koschaker, *Über einige griech. Rechtsurkunden aus den östlichen Randgebieten des Hellenismus* (*Abhandl. d. philolog.-hist. Kl. d. Sächs. Ak. d. Wiss.*, XLII Nr. 1), (1931), p. 24 ff.

²² See the text above, note ¹¹.

²³ Cf. Th. W. Juynboll, in *Enzyklopädie des Islam* (M. Th. Houtsma-T. W. Arnold-R. Basset-R. Hartmann), s. v. 'Abd, p. 19.

