

Lewis, Naphtali

Two petitions for recovery : (P. Col. Inv. Nos 61 and 62; 318 A. D.)

The Journal of Juristic Papyrology 2, 51-66

1948

Artykuł został zdigitalizowany i opracowany do udostępnienia w internecie przez **Muzeum Historii Polski** w ramach prac podejmowanych na rzecz zapewnienia otwartego, powszechnego i trwałego dostępu do polskiego dorobku naukowego i kulturalnego. Artykuł jest umieszczony w kolekcji cyfrowej bazhum.muzhp.pl, gromadzącej zawartość polskich czasopism humanistycznych i społecznych.

Tekst jest udostępniony do wykorzystania w ramach dozwolonego użytku.

TWO PETITIONS FOR RECOVERY

(P. Col. Inv. Nos 61 and 62; 318 A.D.)

The papyri which form the subject of the present article come from the fourth-century "Aurelius Isidorus archive," which is now distributed among the collections of the British Museum, the Cairo Museum, Columbia University, New York University, the University of Michigan and Mr. Wilfred Merton (in London). Pieces from this archive have previously been published by Boak in *Mélanges Maspero* II, *Études de Papyrologie* II-V (1934-39), *Harvard Studies in Classical Philology* LI (1940), *Byzantion* XVII (1944-45) and *The Journal of Juristic Papyrology* I (1945); and by Kraemer and Lewis in *Transactions of the American Philological Association* LXVIII (1937).

Among the Columbia pieces are two petitions from Aurelius Isidorus for the recovery of a defaulted debt. These petitions date from 318 A.D.,¹ but the antecedents of the affair — revealed by one of the Merton papyri,² which I am able to summarize here through the kind offices of Sir Harold Bell — go back to the year 314/5 A.D. In that year Isidorus leased from two brothers, Castor and Ammonianus, some 25 arouras of seed land ἐπὶ κοιωνίᾳ ἡμίσους μέρους. Presumably, as was usual in such métayage arrangements,^{2a} Isidorus was to furnish the labor in exchange for half the produce. Actually, Isidorus advanced the seed, paid the hire of oxen to break up the ground and of reapers for the harvest, and in addition made Castor and Ammonianus a direct loan in money and kind. This cumulative indebtedness was no doubt to be deducted from Castor and Ammonianus' half share of the produce. After the harvest,

¹ See below, note to Inv. No. 61, line 17.

² This papyrus appears as No. 6 of Box xvi in the inventory of the 1924 group purchase directed by Sir Harold Bell. It will, accordingly, be referred to in this article as P. Merton ined. xvi. 6.

^{2a} Cf. S. Waszyński, *Die Bodenpacht*, pp 153-156.

however, the brothers came and carried off the entire produce of the 25 arouras. Unable to obtain restitution by direct appeal to the culprits, Isidorus notified the *strategus* (= *exactor civitatis*)² and the *praepositus pagi*, and, on December 27, 315 A.D., petitioned the *praeses Aegypti Herculiae* for redress. This petition was returned with the *praeses*' subscript stating that the *exactor* would investigate and see that justice was done. On January 30, 316, Isidorus addressed another petition to the *strategus*, appending a copy of his petition to the *praeses* with the latter's subscript, and asking the *strategus* to proceed accordingly.

P. Col. Inv. No. 61 now picks up the story, revealing that the matter was settled in Phamenoth (=Feb./March) of 316 — no doubt after the intervention of the *strategus-exactor*, though this is not specifically stated. In the settlement Castor and Ammonianus apparently discharged their entire indebtedness to Isidorus except for 52 artabs of wheat and 18 artabs of kidney-beans. For his remaining debt they gave him a note secured by a hypothec upon three oxen; and simultaneously their brother-in-law, Tomis, executed a surety bond, guaranteeing Isidorus the possession of the three oxen if Castor and Ammonianus failed to repay their debt in Payni (= May/June, after the next harvest).

Payni came and went, but Isidorus received neither produce nor oxen. In the course of the next two years, during which, we must suppose, Isidorus made repeated attempts to collect, Castor died, Ammonianus resorted to flight (*ἀναχώρησις*), and Tomis and his brother Demetrius (who was also the husband of Atola, sister of Castor and Ammonianus) took possession of all of the property of Castor and Ammonianus. The new owners, however, were no more inclined than the old to discharge the outstanding obligation to Isidorus, and finally, on April 13, 318 A.D., Isidorus petitioned the *praeses Aegypti Herculiae* for redress. This petition (P. Col. Inv. No. 61) was returned to Isidorus with the *praeses*' subscript stating that the *praepositus pagi* would investigate and assist him to recover. Upon receipt of this response Isidorus, on July 15, 318, addressed a petition (P. Col. Inv. No. 62) to the *praepositus pagi*, append-

² Cf. F. Oertel, *Die Liturgie*, p. 219.

ing a copy of his April petition with the *praeses*' subscript, and asking the *praepositus* to summon the accused before him and render judgment.

Of particular legal interest in these two Columbia petitions are the hypothecation of oxen and the evidence on the judicial competence of the *praepositus pagi*.

In the documents from Graeco-Roman Egypt, mortgaged objects are usually *immobilia*, but hypothecs of movables are not unknown.⁴ A hypothec of cattle has, however, not hitherto been encountered, as far as I know. An analogous but not identical situation is found in P. A.-M. Desrousseaux,⁵ dating from 75 B.C., where a cow is the object pledged in a fiduciary sale (πράσις ἐπὶ λύσει or ὠνή ἐν πίστει). The two types of transactions were largely equivalent in practical effect, so much so, in fact, that the fiduciary sale was frequently thought of and expressed in hypothec terms; *cf. e. g.*

P. Heidelb. 1278 (= Mitteis *Chrest.* 235; 111 B.C.). 4-6
ὄν ὁπέθετο... κατὰ συγγραφὴν ὠνῆς ἐν πίστει,

P.A.-M. Desrousseaux (75 B.C.), 11-13 ὁπ]έθεντο... καθ'
...ὁμολογίαν πρά[σεως] βοῦς [θ]ηλείας πρὸς ἀσφ[ά]λειαν τοῦ δανείου,

BGU 650 (= Wilcken *Chrest.* 365; 46/7 A.D.). 6 ἀγορασμῶι
ῆ καὶ ὁποθήκη κλήρου, and

P. Lond. 338 (= Mitteis, *Chrest.* 52; ca 150 A.D.), γράμ-
ματα χειρογράφου πράσεως [καὶ ὁ]ποθήκης κα(ι) δ[αν]είου.

From the legal point of view, however, there was this important distinction: under a hypothec the debtor retained possession of and title to his property, which was placed under lien; in the other case, since the transaction was in the form of a sale, title passed immediately to the "purchaser" (= creditor), while the object "sold" remained in the actual possession of the "seller" (= debtor).⁶

Another noteworthy feature of this hypothec is its inclusion of a suretyship (ἀναδοχή) to guarantee performance of

⁴ *Cf.* L. Mitteis, *Grundzüge*, p. 132; for mortgaged slaves *cf.* F. Hamb. p. 120.

⁵ Published by P. Jouguet, *Mélanges Desrousseaux* (Paris, 1937), pp 229-238.

⁶ *Cf.* Mitteis, *op. cit.*, p. 135; R. Taubenschlag, *The Law of Greco-Roman Egypt*, pp 206-207.

the obligation. Such an arrangement, while not unique, was rare. Normally, a mortgage in Greco-Roman Egypt contained a $\beta\epsilon\beta\alpha\acute{\iota}\omega\sigma\iota\varsigma$ or similar clause, in which the debtor-mortgagor himself expressed the necessary guarantees on his own liability; ⁷ sureties were generally required only for unsecured loans. It is clear, however, that sureties were occasionally demanded even where a debt was secured by a mortgage ⁸ — *cf. e. g.*, P. Cairo Zenon 59504 (third century B.C.); P. Oxy. 2134 (ca 170 A.D.); P. Mon. 14 (594 A.D.); and P. Oxy. 270 (= Mitteis, *Chrest.* 236 = Select Papyri 57; 94 A.D.), in which a mortgagor in turn guarantees to indemnify her surety: if he is called upon to pay her debt, he will receive the mortgaged property in exchange.

The *praepositus pagi* is a well-known administrative official of fourth-century Egypt.⁹ His police and fiscal functions are attested by a considerable body of texts;¹⁰ but

⁷ *Cf.* A. B. Schwarz, *Hypothek und Hypallagma*, p. 55; Taubenschlag, *Atti del IV Congresso internazionale di papirologia*, pp 271-272 and *op. cit.*, pp 212, 226, 311 („in the course of time [i. e., in the third century B. C.] the debtor became his own surety.”).

⁸ So, too, in a second-century-B.C. law of Samos: *cf.* Taubenschlag, *op. cit.*, p. 210 note 51.

⁹ *Cf.* M. Gelzer, *Studien zur byzantinischen Verwaltung Aegyptens*, pp 57-58; Oertel, *op. cit.*, pp 301-302.

¹⁰ These may be classified as follows:

FISCAL

a. *Nominations to liturgic offices addressed to pr. p.*: P. Amh. 139 (= Wilcken, *Chrest.* 406); P. Cairo Preis. 18, 19; P. Goth. 5, 6; P. Lond. 1249; P. Oxy. 1425, 2124 (= Select Papyri 345, 544); PSI 1106, 1107; P. Théad. 50, SB 7757.

b. *Administration and revenues of mines*: P. Amh. 140; Stud. Pal. XX, 76.

c. *Miscellaneous*: P. Amh 142 (= *Chrest.* 65); BGU 21; P. Cairo Goodspeed 12; P. Cairo Preis. 6 (lines 1-5); P. Col. Inv. No. 181(19)+182 (published in *Transactions of the American Philological Ass'n* 68 [1934], pp 357-387); CPR 255 (= Wilcken, *Chrest.* 42); P. Flor. 56 (= Mitteis, *Chrest.* 64); P. Gen. 54?; P. Lond. 971 (= Mitteis, *Chrest.* 95); P. Oslo 115; P. Oxy. 1190?, 1255; SB 5556; PSI 509; P. Théad. 15, 16, 20, 52 (debt, presumably fiscal).

POLICE

a. *Petitions to pr. p.* (assault, theft): P. Amh. 141 (= Mitteis, *Chrest.* 126); P. Cairo Goodspeed 15 (lines 12-19)?; P. Théad, 21, 22.

b. *Oath of surety for appearance* ($\mu\omicron\nu\eta$ και $\epsilon\mu\phi\acute{\alpha}\nu\epsilon\tau\alpha$) addressed to

only a single document, P. Lond. 971 (= Mitteis, *Chrest.* 95), has hitherto indicated that he also exercised delegated judicial authority. This document is the record of a hearing before a higher official, presumably the prefect or *praeses*.¹¹ The complainant, possessor of a large holding of emphyteutic and other land,¹² protests that one of her overseers has been unjustly appointed to a tax-collection liturgy. Her advocate concludes his appeal with the characteristic plea¹³ that his client be not hampered in her desire to cultivate her land and pay her rents to the state,¹⁴ and the following exchange ensues (lines 19-20):

Magistrate: τίνα βούλεται δικαστήν;

Advocate: τὸν πραιπόσιτον τοῦ πάγου τὸν καὶ ἀπαιτοῦντα τὰ δημ[όσια].

Magistrate: ὁ [πρ]αιπόσιτος τοῦ πάγου μεταξὺ αὐτῶν [δ]ιαλήμφεται¹⁵ τοῦ δικαίου π[ι].

The matter, in other words, is referred for judgment to the *praepositus pagi*, who (note the pointed epexegetis τὸν καὶ ἀπαιτοῦντα τὰ δημόσια) was the local official supervising appointments to liturgies and collection of taxes.¹⁶

pr. p.: P. Würz 16 (fiscal implication' — cf. P. Oslo 115 and Mitteis, *Chrest.* 354, Introd.).

c. Orders issued by pr. p.: P. Cairo Preis 6 (lines 6-11); P. Oxy. 1505?, 1506.

d. Searches: P. Princ. 65?; P. Strassb. 129, 149.

¹¹ On Mitteis' conjecture (*Chrest.* p. 114) that this official was the Prefect of Egypt, see below note 18.

¹² Lines 16-17; cf. Mitteis, *Chrest.*, p. 115 note 17, and note 14 below.

¹³ Cf. N. Lewis, *JEA* 23 (1957), p. 64 note 4.

¹⁴ Line 18: καὶ τήν γῆν παρ[α]λ[α]βει[ε]ν καὶ τοὺς φόρους τ[ε] . τ[ε]λεῖν seems the obvious restoration. φόρους would encompass both the rents due on the emphyteutic land and the taxes on the land which she ἄλλως ἐκληρονόμησεν (line 17).

¹⁵ The *praeses*' subscript in P. Merton ined. xvi. 6 uses this same formula; cf. also the similar language of the subscript in P. Col. Inv. No. 61, 18-19 (see note 16).

¹⁶ A similar procedure may be concealed in the summary wording of P. Théad. 13, 6-7. There we read that a *praeses* δέδωκεν βοήθειαν ὥστε διὰ τῶν πραιποσίτων ἀποκινήθῃναι τ[ή]ν... ἐνόλησεν (sc. by the tax-collectors). In the light of P. Lond. 971 this probably means, not that the *praepositi* merely executed a judgment rendered by the *praeses*, but rather that the *praeses*, petitioned for relief from harassment by tax-collectors,

P. Lond 971, then, proves that the *praepositus pagi* could exercise judicial functions, at least in some matters pertaining to the state revenues. This text would indicate, further, to the *praepositus pagi* had no original jurisdiction, but had judicial competence only in specific cases delegated to him by a higher authority.

At this point the question naturally arises as to whether the *praepositus pagi* similarly exercised judicial authority in connection with his police functions. P. Théad. 22 makes it clear that, in certain criminal matters at least, he did not have judicial competence. In that document, a complaint concerning robbery, the petitioner asks the *praepositus pagi* first to take steps (the details of which are not clear) looking toward the recovery of the stolen property, and then to refer the petition to the *dux*, ἀποῦ γάρ ἐστι τὰ τοιαῦτα τολμοῦντες (l. -ας) ἐκδικεῖν (lines 16-17). In other words, the *praepositus* is here asked to take certain steps in his police capacity, but his police powers obviously do not extend to judicial competence in criminal matters such as theft.¹⁷

To this picture of the judicial competence of the *praepositus pagi* the Columbia petitions here published make two significant additions, attesting a broader and more regular authority than has hitherto been apparent. To be sure, these petitions strengthen the previous evidence that the *praepositus pagi* served as judge only in cases specifically referred to him by a higher authority.¹⁸ On the other hand, his judicial functions now appear not to have been limited to fiscal matters: the case here referred to him for judgment seems to be purely civil; no fiscal involvement is apparent,

referred the matter to the appropriate *praepositi*, who decided the case in favor of the petitioner and ordered the collectors to cease their molestations. Cf. also the wording of the *praeses'* subscript in the Columbia petition (Inv. No. 61, 18-19, No. 62, 23-24): ὁ πραιπύσιτος τοῦ πάγου διαγνοῦς μεταξὺ ὁμῶν τὴν προσήκουσάν σοι βοήθειαν... παρέξει.

¹⁷ Cf. also P. Théad. 25, the same petition addressed to a *praefectus alae*.

¹⁸ Here and in P. Théad. 15 (cf. above, note 16) the delegating authority is the *praeses*. This evidence suggests that the magistrate in P. Lond. 971 may also be the *praeses*, rather than, as Mitteis thought (see above, note 11), the *praefectus Aegypti*. I have the impression that the accumulated papyrological evidence would now repay a thorough study of these procedural channels in the legal administration of the fourth century.

and certainly *nonē* is mentioned — although, as noted above,¹⁹ where such exist they are, for obvious reasons, customarily stressed. It is altogether likely, therefore, that the judicial competence here attested derives from, or is part of, the *praepositus pagi*'s police powers. In other words, though his police powers, as seen above, did not include criminal jurisdiction, they apparently did include jurisdiction in some civil matters. The other significant point lies in τῶ σ[ῶ] δ[ι]καστηρίῳ (Inv. No. 62, line 5), which suggests that the *praepositus pagi* may have had more than a mere *ad hoc* jurisdiction created by specific referrals of cases by higher authorities; it suggests that the *praepositus pagi* was, in the exercise of his normal police and fiscal functions, also the judge of a regular and permanent court, even though not a court of first instance.

Finally, a subsidiary question suggests itself: Why was this Columbia petition of Isidorus referred by the *praeses* to the *praepositus pagi*, whereas the earlier (Merton) petition had been referred to the *exactor*? The answer, I suspect, is to be found in the respective jurisdictions of these two officials. Tomis and Demetrius, against whom the (Columbia) complaint of 518 A.D. was lodged, were residents of the same village as Isidorus, the petitioner; thus, they all came within the jurisdiction of the local official, the *praepositus* of the fifth *pagus*. In the (Merton) petition of 515, on the other hand, Isidorus informed the *praeses* that the defendants Castor and Ammonianus, though registered inhabitants of Karanis, were then living in Bubastus; since the petitioner and the defendants were on that occasion not located in the same *pagus*,²⁰ the matter had to be referred to an official whose authority extended over the entire nome, namely the *exactor civitatis*.²¹

¹⁹ Cf. note 15.

²⁰ On the location of Bubastus, cf. P. Teb. II, pp 352-3, 373-4.

²¹ Cf. above, note 3. In P. Amh. 142 (= Mitteis, *Chrest.* 65), we find a land dispute referred to the *exactor*, who then instructs the *praepositus pagi* to accompany the *horiodeiktēs* in verifying the boundaries of the disputed land. The *exactor* there does not, as Gelzer thought (*op. cit.* [note 9], p. 57), in turn delegate his authority in the matter to the *praepositus pagi*; he retains jurisdiction in the case, and merely calls upon the latter as the competent local official, to supply certain information which he (the *exactor*) needs in order to render a decision.

P. Col. Inv. No. 61*

Cm. 25. 5 x 26. Medium brown; complete; six vertical folds.

On the *verso*, remains of ten lines in very small cursive hand, unconnected with the *recto* text.

Θυαλερίω Ζίπερι τῷ διασημοτάτῳ ἡγεμόνι Ἡρόουλι[ι]ας Αἰγύπτου
 παρὰ Αὐρηλίου Ἰσιδώρου Πτολεμαίου ἀπὸ κώμης Καρανίδος τοῦ
 Ἄρσινο[ίτου νομο]ῦ. κατὰ τὸν
 Φαμενώθ μῆνα τῆς Σαβείνου καὶ Ῥουφίνου ὑπατείας, ἡγεμῶν δεσ[π]ο[ι]τα,
 Κ[ά]στωρ καὶ ὁ τοῦτου
 ἀδελφὸς Ἄμμωνιανὸς ἀπὸ τῆς αὐτῆς κώμης ἐν χρία γενόμενοι
 ἡύχρ[ησθήθησα]ν παρ' ἐμοῦ σίτου
 5 ἀρτάβας τριάκοντα δύο καὶ φασήλου ἀρτάβας δέκα ὑκτὼ καὶ γραμματε[ι]ά
 μοι τοῦτων ἔθε'ν'το ἐπὶ ὑπο-
 θήκῃ βοϊκῶν τετραπόδων τριῶν. κατὰ δὲ τὴν αὐτὴν ἡμέραν ὁ τ[ρ]ούτων
 π[ε]νθερὸς Τῶμις ὁμολο-
 γείας γράμματά μοι ἔθετο δι' ἧς τὴν ἀναδοχὴν τῶν βοῶν πεποιήται ἐφ'
 ὥτε ἂν μὴ εἴσω τοῦ Παῦνι μη-
 νὸς τὴν τῶν ὑσπρέων παράδοσιν μοι ποιήσονται δηλαδὴ τὴν τῶν βοῶν
 ἔχειν με δεσποσίαν τοῖς
 γραμματείοις ἀκολούθως. ἐπεὶ οὖν ὁ μὲν Κάστωρ ἐξήλθεν τὸν βίον καὶ
 Ἄμμωνιανὸς ἐν ἀναχωρήσει
 10 τυγχάνει[ι], ὃ τε προκείμενος Τῶμις καὶ ὁ τοῦτου ἀδελφὸς Δημήτριος
 ἀνὴρ τυγχάνων τῆς τῶν ὑπο-
 χρέων μου ἀδελφῆς Ἀτολᾶς πάντων τῶν ὑπ' ἐκείνων καταλιφθέντων —
 βοϊκῶν δὴ λέγω

ὀκτώ καὶ οἰκ[ο]πέδων καὶ τῶν ἄλλων — ἐγκρατῆς ἐγένοντο, ἐμοὶ μηδὲν
 παρασχόμενοι μήτε τὰ

ὑσπρεα μήτε τὰ βοϊκὰ τετράποδα τοσοῦτου χρόνου διαγενομένου, κατα-
 φρονούντες μου.

τούτου ἕνεκεν καταλαμβάνω τὴν σὴν ἀνδρείαν δεόμενος καὶ παρακαλῶν
 ὅπως εἰ σοι δό-

15 ξιεν κελεύσαι δι' οὗ ἂν δοκιμάσῃς ἐπαναγκασθῆναι τοὺς ἀντιτεταγμένους
 ἢ τὰ ὑσπρεα ἀποδοῦ-

να ἢ τὴν τῶν βοῶν τριῶν ἀποκατάστασίν μοι ποιήσασθαι τοῖς γραμμα-
 τίοις ἀκολούθως, καὶ χάριτάς

σοι ὁμο[λογ]εῖν. διευτύχει. Φαρμουθι ιη.

(2nd hand)

ὁ πραιπόσιτος τοῦ πάγου διαγνοὺς μεταξὺ ὑμῶν τὴν προσήκουσάν σοι

βοήθειαν ἐπὶ τοῖς χρεωστούμενοις παρέξι. κέλλημα) ἐη.

4. corr. fr. ἀδελφῆ Ἀμμωνια. 17. I. ὁμολογήσω.

TRANSLATION

“To Valerius Ziper, *vir perfectissimus, praeses Aegypti Herculiae*, from Aurelius Isidorus son of Ptolemaeus, inhabitant of the village of Karanis, Arsinoite Nome.

In the month of Phamenoth in the consulship of Sabinus and Rufinus, my lord *praeses*, Castor and his brother Ammonianus, inhabitants of the same village, having fallen into need borrowed from me thirty-two artabs of wheat and eighteen artabs of kidney-beans, and they gave me a note for these, mortgaging three four-footed oxen as security. On the same day, their brother-in-law Tomis executed in my behalf a contract-bond by which he undertook the surety of the oxen, so that if they [i. e. Castor and Ammonianus] did not effect the return of the produce to me within the month

of Payni, I was clearly to acquire ownership of the oxen, in accordance with the mortgage.

Now since Castor has departed this life and Ammonianus happens to be in flight from his home, the aforesaid Tomis and his brother Demetrius, who happens to be the husband of Atola the sister of my debtors, have taken possession of everything left behind by them — viz., eight oxen, house (-lot)s and the rest — and, despising me, have given me nothing, neither the produce nor the four-footed oxen, though so long a time has passed.

Therefore, I appeal to your nobility, begging and beseeching you to instruct, if it please you, through whomever you think best that my opponents be compelled either to pay back the produce or to effect the transfer to me of the three oxen, in accordance with the mortgage, and I shall be grateful to you.

Farewell. Pharmouthi 18th".

(2nd hand) "The *praepositus* pagi, after having decided between you, will provide thee the appropriate assistance in the matter of the debt owed you." Col. 68.

1. The *nomen* of the *praeses*, Valerius, should be read also in the first line of P. Théad. 19, which can now also be dated more precisely on the basis of the Columbia document to ca 316–320. (P. Merton ined. xvi. 6 shows that one Aurelius Antonius was the *praeses Aegypti Herculiae* as late as December 27, 315 A.D.)
4. The locution ἐν χρείᾳ γενέσθαι has, I believe, not previously been encountered in the papyri.

On σῖτος = wheat cf. M. Schnebel, *Die Landwirtschaft im hellenistischen Ägypten* (Münchener Beiträge zur Papyrusforschung und antiken Rechtsgeschichte VII), 94–95.

ἠδὲ χρηστήθησαν: the passive of ἐδχρηστῆσω. "I lend," is well attested in the sense of "I am lent = I borrow"; similarly, δανείζω (active: "I lend," middle: "I borrow"), παραχωρέω and καταγράφω (active: "I cede, transfer," passive: "I am ceded = I acquire"); cf. Liddell-Scott-Jones and Preisigke, *Wörterbuch*, s. *vv*.

5. On the meaning of γραμματεῖον in the legal terminology of the Byzantine period, cf. A. B. Schwarz, *Die öffentliche und private Urkunde im römischen Ägypten* (Abhandlungen der sächsischen Akademie der Wissenschaften, Phil.-Hist. Klasse, xxxi 3), 23–24.
6. The form Τῶμις does not appear in Preisigke's *Namenbuch*.
- 6–7. The expression ὁμολογείας γραμματεῖον is, as far as I am aware, new. It signifies, no doubt, that the surety document was in the form of

an ὁμολογία; for examples of such agreements see Preisigke, *Wörterbuch* s. νν ἐγγράω and ἀναδέχομαι 4).

- ἐπὶ ὑποθήκῃ followed by the genitive is encountered also, e. g. in P. Oxy. 2154, 52 (cf. 14) and SB 4570, 41—42; the more usual construction places the object hypothecated in the appositive dative.
8. (also 15, 15). ὄσπρεα, which earlier designated “all sorts of pulse and even mustard” (P. Teb. I, p. 288; cf. e. g. P. Oxy. 494 (156 A.D.), 10, *πυρὸν καὶ ὄσπρεα καὶ γενήματα*), had by the fourth century come to be used for any mixed produce, including grains; cf. e. g. P. Lips. 21 (382 A.D.). Our petition, in which ὄσπρεα = wheat and kidney-beans, affords the earliest instance of this broader meaning.
9. (and 16). τοῖς γραμματείοις ἀκολούθως: Does the plural *γραμματεῖοις* here refer to the two documents mentioned — namely, the mortgage bond of Kastor and Ammonianus and the surety agreement of Tomis — or merely to the original note, which is itself designated (line 5) by the plural form *γραμματεῖα*?* The latter view seems preferable. In line 9 the phrase *τοῖς γραμματείοις ἀκολούθως* occurs in the statement of the terms of the surety agreement, which would more logically make reference to the loan being guaranteed than to both the loan contract and itself. It may be objected that, since a creditor had the choice of collection from either the debtor or the surety (cf. R. Taubenschlag, *The Law of Greco-Roman Egypt*, 512), Isidorus is strengthening his claim by basing it on both documents; the plural *τοὺς ἀντιτεταγμένους* in line 15 (cf. Inv. No. 62, 4-5, *τοῖς ἀτιαθεῖ[σι]ν ὑπ’ ἐμοῦ Τώμῳ καὶ Δημητρίῳ*) shows, however, that Isidorus seeks redress not solely from Tomis, who alone was the surety, but from both Tomis and Demetrius in their capacity as successors to the property of the original debtors.

This is, apparently, the first occurrence of the expression *ἐξέρχομαι τὸν βίον*, formed perhaps on the analogy of the more familiar *τὸν βίον τελεῖν* or *τελευτᾶν*. The transitive use of *ἐξέρχομαι* is encountered in the papyri at least as early as the second century B. C.: cf. E. Mayser, *Grammatik der griechischen Papyri aus der Ptolemäerzeit* II 2, 511.

The evidence on *ἀναχώρησις* in the fourth century has been collected by V. Martin, *Münchener Beiträge zur Papyrusforschung und antiken Rechtsgeschichte* XIX, 161-162; for the earlier period see *ibid.* 145-161, *idem*, *Atti del IV Congresso internazionale di Papirologia* 225-250, and N. Lewis, *Journal of Egyptian Archaeology* XXIII (1937), 65—75.

11. The name Ἀπόλλᾶ does not appear in Preisigke's *Namenbuch*.
14. *καταλαμβάνω τὴν σὴν ἀνδρείαν*: The first occurrence of this locution was in P. Oxy. 67, 17, *καταλαμβάνοντες τὴν σὴν ἀρετὴν δεόμεθα κτλ.*, which the editors translated “Knowing your goodness, I beg you” etc.

* The surety agreement is also designated by a plural (*γράμματα*) in this copy of the petition (line 7), but in Inv. No. 62, 12 the singular *γραμματεῖον* is used.

However, with the publication of *Stud. Pal.* XX, 88 it became apparent that καταλαμβάνειν in such a context must mean not "to grasp with the mind = to know," but "to clutch at (for help) = to resort to, apply to, appeal to" (cf. Preisigke, *Wörterbuch* s. v. 2). This conclusion is now confirmed by the present petition, in which καταλαμβάνω can hardly have any other meaning.

- 14-15. On ὅπως with infinitive, cf. E. Mayser, *Grammatik der griechischen Papyri aus der Ptolemäerzeit* II, p. 257 *Ann.* 10.
15. κελύσαι δι' ὃ ἐάν δοκιμάσης ἐπαναγκασθῆναι occurs also in P. Amh. 85 (= Wileken, *Chrestomathie* 250), 15, which is contemporary with our petitions; cf. also P. Théad. 19, 17 δι' ὃ εὐδοκιμάσης ("I. ἐάν δοκιμάσης — Jouguet, *apparatus ad loc.*)
- 16-17. The phrase χάριτάς σοι ὁμολογήσω was frequently used in the Byzantine period to close petitions for other instances see Preisigke, *Wörterbuch* s. vv.
17. Since the petition is dated only by the month and day, (Pharmuthi 18 = April 15), the problem arises of determining the year to which it is to be assigned. *Termini post* and *ante quos* are provided by lines 7-8, where we are told that the loan to Kastor and Ammonianus was due in May/June of 516 A.D., and by Inv. No. 62, which is dated (line 7) July 15, 518 A.D. This leaves April 15, 517 or 518 A.D. as the possible dates for Inv. No. 61. It may be objected that placing the petition in 518 leaves unexplained why Isidorus should have waited, from June 516 to April 518 — nearly two years — to file his petition for redress. This time lapse may, however, reasonably be accounted for when we recall that Kastor had died, that Ammonianus had fled, and that Isidorus would presumably first apply to their successors, Tomis and Demetrius, to honor the debt before having recourse to legal proceedings. Assigning Inv. No. 61 to the year 517, on the other hand, is open to more serious objection. In the first place, if the petition were being written in April of 517, the year 516 would more likely have been referred to in line 5 as "last year," rather than as "the consulship of Sabinus and Rufinus" (cf. e. g. BGU 909, 12-15 [κατὰ τὸν πέρουσι ἐνιαυτόν]). In the second place, the year 518 obviously fits better with τοσοῦτου χρόνου διαγενομένου in line 15 than does the year 517. Finally there is little doubt that Isidorus would address his petition to the *praepositus pagi* (Inv. No. 62) promptly upon the return of his original petition with the subscript of the *praeses* (Inv. No. 61). Since Inv. No. 62 is dated July 15, 518, assigning Inv. No. 61 to April of 517 would mean that Isidorus had to wait 15 months for the *praeses'* subscript on his original petition. This is hard to believe, especially since P. Merton ined. xvi. 6 shows that the petition which Isidorus sent to the *praeses* on Dec. 27, 515 was returned to him with the *praeses* subscript by Jan. 30, 516 — i. e., in about one month. The conclusion seems practically inescapable, then, that Inv. No. 61 is to be dated April 15, 518 A.D.

18. μεταξὺ: so also in P. Oxy. 1117 (ca 178 A.D.), 3, διέγνωσ μεταξὺ ἡμῶν; περι is usual with διαγιγνώσκω — cf. Mayser, *Grammatik* II 2, 447; Preisigke, *Wörterbuch* s. v.

18-19. Following the established procedure, Isidorus submitted this petition to the *praeses* in duplicate. One copy was retained in the *praeses* files; the second, which is the papyrus published here, was returned to Isidorus with a subscript containing the reply of the *praeses* and the number of the *kollema* under which the duplicate was filed in the *praeses'* office. In the parallel subscription of P. Théad. (lines 21-25), the reference to the files is given in the more usual way, by volume as well as page number.

One further difference between Inv. No. 61 and P. Théad. 19 may be noted: the former, bearing the subscript in a hand different from that of the petition, is obviously the original which the petitioner submitted and received back; in P. Théad. 19, the ὑπογραφή is in the same hand as the rest, so that that document is, as Jouguet saw (lines 21-25, note), a copy* (cf. below, Inv. No. 62, 23-24).

P. Col. Inv. No. 62

Cm. 26. 5 x 26. Light brown; broken at right; surface badly rubbed and writing effaced in center. *Verso* blank.

Ἀδρηγλίω Γερωντίω π[ραιπ]ο[σί]τω ε [π]άγου

παρὰ Ἀδρηγλίου Ἰσιδώρου Πτολεμαίου ἀπὸ κ[ώ]μης Καρανίδος. ὣν ἀνήνεγα
βιβλ[ι]θ[ι]κῶν τῶν κυρίω μου διαση-

μοτάτῳ ἡγεμόνι τῆς Ἡρακουλίας Αἰγύπτου. Οὐ[θα]λερι[ί]ω Ζίπερι μεθ' ἧς
ἔτυχον ὑπὸ τοῦ μεγαλείου αὐτοῦ ὑπογραφῆς τὸ ἀν-

τίγραφον ἐξῆς ὑποτάξας ἐπιδίδωμί σοι, ἀξιῶ[ν] τ[ούτ]ων τὸ ἴσον ἐπισταλῆναι
τοῖς αἰτιαθεῖ[σι]ν ὑπ' ἐμοῦ Τώμ[ει] καὶ Δημη-

5 τρίῳ ἀπὸ τῆς αὐτῆς κώμης, ἵν' εἰδῶσι τὰ ..α...[.]α [καὶ] προσεδρεύσωσιν
τῶ σ[ὶ]ν δικαστηρίῳ ἄχρι ἂν τὰ με-

ταξὺ ἡμῶν πέρατος τύχη, διευτύχει. ὑπατείας τ[ῶν] δεσπότη[ων] ἡμῶν
Λικινίου Σεβαστοῦ τὸ ε' καὶ Κρίσπου [τοῦ

ἐπιφανεστάτου Καίσαρος τὸ α' Ἐπει[φ] κα. Ἐ[στι] δέ [Οὐθαλερίω Ζίπερι]
τῶ διασημοτάτῳ ἡγεμόνι Ἡρακουλίας

- Αἰγύπτου παρὰ Ἀδρηλίου Ἰσιδώρου Πτολεμαίου ἀπὸ κώμης Καρανίδος
 τοῦ Ἀρσινόου νομοῦ. κατὰ τὸν
 Φαμένωφ μῆνα τῆς Σαβεῖνου καὶ Πρ[ου]φ[ίνου ὑπατ]ε[ί]ας, ἡγεμῶν δέσποτα,
 Κάστωρ καὶ ὁ τοῦτου ἀδελφός Ἀμ-
 10 μωνιανός ἀπὸ τῆς αὐτῆς κώμης ἐν χρίᾳ [γενόμε]νοι ἠδ' ἠχρηστίθησαν
 παρ' ἐμοῦ [σίτου ἀ]ρτάβας τριάνοντα
 δύο καὶ φασήλου ἀρτάβας δέκα ἡκτὼ καὶ γραμματεῖά μοι [τούτων]
 ἔθεντο ἐπὶ ὑποθήκῃ βοικῶν τετραπό-
 δων τριῶν. κατὰ δὲ τὴν αὐτὴν ἡμέραν ὁ [τούτων πενθ]ερὸς Τῶμις
 ὁμολογείας γραμματεῖόν μοι ἔθετο
 δι' ἧς τὴν ἀναδοχὴν τῶν βοῶν πεποιθ[η]ται ἐφ' ὧτε ἐὰν μὴ εἴσω τοῦ
 Παῦνι μηνός τὴν τῶν ὑσπρέ-
 15 ων παράδοσιν μοι ποιήσωνται δηλαδ[ὴ] τῆν [τῶν] βοῶν ἔχειν με
 δεσποτίαν τοῖς γραμματέσις
 ἀκολούθως. ἐπεὶ οὖν ὁ μὲν Κάστωρ ἐξήληθε τὸν βίον καὶ Ἀμμωνιανός
 ἐν ἀναχωρήσει τυγχάνει,
 ὃ τε προκείμενος Τῶμις καὶ ὁ τοῦτου ἀδελφός Δ[ημή]τριος ἀνὴρ
 τυγχάνων τῆς τῶν ὑποχρέων μου
 ἀδελφ[ῆ]ς Ἀτολᾶς πάντων τῶν ὑπ' [ἐκείνων καταλι]φθέντων — βοικῶν
 δὴ λέγω ἡκτὼ καὶ οἰκοπέ-
 20 δων καὶ τῶν ἄλλων — ἐνκρατῆς ἐγ[έ]νοντο, ἐμοὶ μὴδὲν παρασχόμενοι μήτε
 τὰ ὑσπρεα μήτε
 τὰ β[οι]κὰ τετραπόδα τοσοῦτου [χρ]ό[ου] διαγενομένου, καταφρονοῦντές
 μου. τοῦτου ἔνε-

κιμ[ά]σ[η]ς ἐπαναγκασθῆναι τοὺς ἀντιτετα[γ]μένους ἢ τὰ ὕσπρεα ἀποδοῦναι ἢ
τῆ[ν] τῶν βοῶν τριῶν [ἀπο-

κατ[ά]στ[α]σιν μοι ποιήσασθαι τοῖς γραμ[μ]ατίοις ἀκολούθως, καὶ χάριτάς σοι
ὁμολογεῖν. διευτύ[χει].

Φαρμουῦθι [ι]γ. ὁ πραιπ[ό]σιτος τοῦ [πάγου διαγνοῦ]ς μεταξὺ ὑμῶν τὴν
προσήκουσάν [σοι

βοήθειαν ἐπὶ τοῖς χρεωστούμενοις παρέξει. κολ(λημα) ἔη. (2nd hand)

Ἀδρήλιος Ἰσίδωρος ἐ[πι]δέ-

25 δωκα. Ἀδρήλιος Σερῆνος ἔγραψα ὑπὲρ αὐτοῦ ἄγραμμάτου.

4. ἴσον pap.; επισταληναι — first a app. corr. fr. o. 22. l. ὁμολογήσω

TRANSLATION

“To Aurelius Gerontius, *praepositus* of the fifth *pagus*, from Aurelius Isidorus son of Ptolemaeus, inhabitant of the village of Karanis.

Appending immediately below the petition which I submitted to my lord Valerius Ziper, *vir perfectissimus, praeses Aegypti Herculiae*, together with the subscription vouchsafed me by his highness, I present this to you, with the request that a duplicate be sent to those accused by me, namely Tomis and Demetrius, inhabitants of the same village, so that they may know... and may attend at your court until the issue between us is settled. Farewell.

Consulship of our lords Licinius Augustus for the fifth time and Crispus most noble Caesar for the first time, Epeiph 24th.

Copy:” (There follows a copy of Inv. No. 61).

1. This Gerontius is no doubt the same man who appears eight years later, in P. Amh. 138 (=Mitteis *Chrest.* 342; 326 A. D.), as στρα(τηγός) Α(). By 326, in other words, he had been promoted from *praepositus* of the fifth *pagus* to the next higher office in the ad-

- ministration, that of *strategus* of the nome (= *exactor civitatis*; cf. Gelzer, *op. cit.* p. 57; Oertel, *op. cit.*, pp 299-300; and above, p. 57 note 21). Barring the altogether unlikely assumption that his promotion involved his transfer to another nome, it now becomes clear that the abbreviation in P. Amh. 158 is to be resolved Ἄ(ρσινοίτου).
- 2-3. The same formula is found in P. Oxy. 66 (357 A.D.), 17-20.
- 5-6. ἄχρη ἄν... πέρρατος τύχη: this formula (with ἕως in place of ἄχρη) is found also in P. Lips. 45, 16; 46, 15; 52, 15-16 (571-572 A.D.; cf. also 51, 16).

Naphthali Lewis

[Brooklyn College,
Brooklyn N. Y.]