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Additional provisions in private legal acts in Greco-Roman Egypt

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Tekst jest udostępniony do wykorzystania w ramach dozwolonego użytku.

ADDITIONAL PROVISIONS IN PRIVATE LEGAL ACTS IN GRECO-ROMAN EGYPT

As yet, the papyrological literature is lacking a monographic study of the problem of additional provisions in private legal acts (*accidentalialia negotii*) such as condition, term and injunction to the person who profits by a gratuitous act (*modus*). It seems that an attempt to examine this problem in connection with first hand material from the Ptolemaic, Roman and Byzantine epochs might not be without interest.

I. C o n d i c i o

The doctrine calls condition¹ a provision which makes the arising of effects of an act or their ceasing dependent upon a future, uncertain event. Thus we speak of a suspending or a resolving condition. Conditional provisions appear in the papyri in quite a number of deeds of various contents. But because of our fragmentary knowledge of formal law sources in Greco-Roman Egypt², it is on the whole difficult to state whether it is the will of the parties which gives to the provision its conditional character or whether we have here only a repetition in the respective deed of a norm of positive law (so-called *condiciones iuris vel tacitae*³). Therefore we will deal in the following pages only with several typical instances in which there is no doubt possible that they mean conditions in the proper sense⁴.

¹ Cf. the definition Arangio-Ruiz, *Istituzioni* (10 ed.), 84. On conditions in Roman Law see the fundamental treaty by Mitteis, *Röm. Privatrecht* 167 ff.

² Cf. Mitteis, *Sav. Z.* 33, 518.

³ E.g. the legal consequences of the violation of marriage obligations provided for in marriage-contracts cf. Taubenschlag, *Law* I 90 f.

⁴ The present article is not concerned also with cases which undoubtedly offer examples of *condiciones tacitae*, such as e.g. the expression ἐὰν δέ τι ἀνθρώπινον πάθῃ occurring in deeds of will (see one of the oldest Ptolemaic testaments PP III 1, col. I l. 9 f. [238 B.C.]).

The most frequent conditions in the papyri have the form of penalties stipulated in various deeds. The conditional essence of these provisions consists in that the efficacy of the obligation to pay the penalty depends on the non-performance or violation by a party of the terms of the contract (so-called potestative suspending condition). The problem of penal clauses was exhaustively treated by Berger⁵, making it superfluous to examine here this point in detail⁶.

In the sphere of the law on wills, conditions are quite frequent and various⁷. In the first place, there are substitutions which provide the most typical example of a suspending condition attached to a will. There is 1) the *substitutio vulgaris*, met with often in Greek⁸ and also in Roman wills, as for instance the will of Longinus Castor where it appears in a very hellenized form⁹—and 2) the *substitutio pupillaris* of which one, rather doubtful, example is to be found in BGU III 896¹⁰. Suspending conditions are also added when a heir second in succession is instituted (so-called Nachberufung) — an arrangement known to the Greek law¹¹ and frequent in papyri¹²: the inheritance by the second heir is made here conditional on whether the first one dies childless and intestate¹³.

Another kind of conditional provisions are testamentary emancipations of slaves made on a suspending condition¹⁴, as for in-

⁵ *Strafklauseln in den Papyrusurkunden* (1911).

⁶ From the later material concerning penal clauses see the sources quoted by Taubenschlag, *Law I*: in contracts of loan 262 ff.; of sale 246₂₃, 249₃₄₋₃₇, 251₇, 252₁₆, 253₇; in marriage and divorce contracts 90, 92 ff.; penal clauses in the *pacta compromissi* — cf. my art. *JJP VI*, 253₁₅₆.

⁷ Cf. Kreller, *Erbrechtliche Untersuchungen* 362 ff.

⁸ Cf. l. c. 360 ff.; Taubenschlag, *Law I* 144 not. 10 and quoted there SB 7816₁₃.

⁹ BGU I 326 = M. Chr. 316 (189 A.D.) col. II. 10—13 cf. Kreller l. c. 381; Taubenschlag l. c. 146; another case BGU 1655₃₄₋₃₈ (196 A.D.) cf. l. c. 146 n. 22.

¹⁰ (161—169 A.D.) l. 5 cf. Arangio-Ruiz, *Sucessione* 92 f.; Mitteis, *Grundz.* 239; Kreller l. c. 361 f.

¹¹ Cf. Kübler, *RE V A 1*, 979 ff.

¹² Cf. Kreller l. c. 356 ff. and the sources quoted there.

¹³ Cf. l. c.

¹⁴ Conditional emancipations of slaves were more largely known to the Greek law than to the Roman law cf. Mitteis, *Reichsrecht u. Volksrecht* 384 ff.; but I was not able to find any instance of a conditional emancipation *inter vivos* in the papyri.

stance in P.P. III 20 (235 A.D.) where the emancipation depends on the previous death of the testator's son, who is his heir.

Similarly, gifts for the benefit of third persons may be set up conditionally¹⁵, as illustrated for instance in Grenf I. 21¹⁶, where the Greek Dryton in his third will imposes on his son the obligation to pay a pension during four years to his widow if she remains in his house and behaves irreproachably¹⁷ (a potestative resolving condition); or again in Oxy. III. 634¹⁸, where an additional gift to a legatee — slave of somebody else — is made conditional on whether she is freed in the course of one year after the testatrix's death¹⁹. The list of conditional provisions in wills can be completed by instances of the conditional establishment of restricted rights *in rem*²⁰.

Passing into the sphere of the law on obligations²¹, let us consider two instances of suspending conditions in lease and hire contracts.

As a characteristic conditional stipulation in contracts of land lease, we often find a provision according to which the lessor pledges himself to reduce the rent in case of circumstances not dependent on the will of the tenant such or insufficient watering by Nile floods²² or war²³. In spite of opinions expressed in literature²⁴, such *remissio mercedis* cannot be considered as normal consequence of a legal transaction: it must be recognized that this

¹⁵ Cf. Kreller l. c. 352 ff.

¹⁶ = M. Chr. 302 (126 B.C.) cf. l. c. 362 n. 2.

¹⁷ (l. 18.) ἐὰν παραμείνη [τῶι] οἴκωι ἀνέγκλητος οὖσα.

¹⁸ descr. (126 A.D.).

¹⁹ Cf. Arangio-Ruiz l. c. 86; Kreller l. c. 362; see also Lond. II 149 p. XIV cited by Kreller l. c. 362₂.

²⁰ Cf. Kreller l. c. 355 f. and the sources cited there. It is impossible to state the contents of conditional clauses in documents quoted l. c. 362₃.

²¹ As far as real rights are concerned it may be only mentioned that the national law knew a form of lien as a suspensively conditioned sale cf. Taubenschlag, *Law* I 205 and the lit. cited there.

²² See the sources quoted by Waszyński, *Bodenpacht* I, 132 ff.: it may be added Oxy. I 51 (142 A.D.) l. 24 and from the later material: Ent. 59 (222 B.C.) cf. my art. *JJP* VI, 250₁₀₈; BGU VI 1286 (III cent. B.C.) l. 11 ff.; Frankf. I (214—13 B.C.) l. 12; Tebt. II 374 (131 A.D.) l. 19 ff.; Oxy. X 1279 (139 A.D.) l. 22 ff.; Oxy. XI 910 (197 A.D.) l. 26 ff.; Princ. III 148 (172—3 A.D.) l. 17 ff.; Oxy. VIII 1125 (II cent. A.D.) l. 10 ff.; Rend.-Harr. 80 (250 A.D.) l. 27 f.;

²³ Cf. Taubenschlag, *Law* I 271₁₀ and the sources cited there.

²⁴ Waszyński, *Bodenpacht* I 133.

is an unquestionable case of a causal resolving condition²⁵ which, however, affects not the whole of the legal act but the part of it which fixes the amount of the rent.

The second instance characteristic of conditional provisions is to be found in contracts with nurses which establish the obligation to take another child for nursing should the first ward die²⁶.

As to the legal state of affairs *pendente condicione* and the consequences of conditions being fulfilled or not being fulfilled, the papyri, unfortunately, do not furnish any information at all.

II. Dies

A term (*dies*) is such clause in a legal transaction which makes the effects of the act begin (*dies a quo*) or cease (*dies ad quem*) at a certain date²⁷.

In the papyri, the most frequent type of contracts restricted by terms are lease contracts — first of all lease and sub-lease of land²⁸

²⁵ Cf. the literature cit. Kalèn, *Berl. Leihg.* p. 194; Taubenschlag, l. c. 272. This statement may be confirmed by the fact that in Egyptian and Greek law the debtor was liable even if he failed to discharge his obligation on account of circumstances beyond his control cf. l. c. 238 f.

²⁶ Cf. l. c. 285 and the sources cited n. 15.

²⁷ Cf. Arangio-Ruiz, *Instituzioni* (10 ed.), 90.

²⁸ Cf. Westermann, *A lease from the estate of Apollonius* (256 B.C.); Col.-Zen. I 54 (250 B.C.); Tebt. III 815 (228—21 B.C.); Frgm. 3, 7; Hib. 90 (222 B.C.); Ent. 59 (221 B.C.); BGU VI 1262 (216—5 B.C.); Frankf. 4 (216—15 B.C.); BGU VI 1263 (215—14 B.C.); BGU VI 1264 B. (215—14 B.C.); Frankf. 2 (215—14 B.C.); Frankf. 1 (214—13 B.C.); BGU VI 1266 (203—2 B.C.); BGU VI 1268 (III cent. B.C.); BGU VI 1269 (III—II cent. B.C.); BGU VI 1270 (192—1 B.C.); Mich. III 182 (1B2 B.C.); Freib. III 34 (174—3 B.C.); Tebt. III 819 (171 B.C.); Ryl. IV 583 (170 B.C.); Giss. I 37 (170—116 B.C.); SB 7188 (151 B.C.); Giss. Univ. Bibl. I [H. IV] 5 (132—1 B.C.); Tebt. I 107 (112 B.C.); Tebt. I 105 (103 B.C.); Tebt. I 106 (101 B.C.); Grenf. II 33 (100 B.C.); BGU VIII 1813 (62—1 B.C.); PSI X 1097 (54—3 B.C.); PSI X 1098 (51 B.C.); Freib. III 21 (Ptol. epoch.); Freib. III 22 (Ptol. epoch.); Ryl. I 601 (26 B.C.); Oxy. II 277 (19 B.C.); BGU IV 1119 (5 B.C.); BGU IV 1120 (5 B.C.); BGU IV 1121 (5 B.C.); Oslo II 32 (1 A.D.); Mich. V 346 c. (16 A.D.); BGU I 197 (17 A.D.); Lond. III 1168 p. 135 (18 A.D.); Mert. 10 (21 A.D.); Ath. 14 (22 A.D.); P. Mich. Inv. 631 [Husselman, *Trans. Proc. Am. Philol. Ass.* 81, 69 ff.] (26 A.D.); Ryl. I 166 (26 A.D.); Mich. V 310 (26—7 A.D.); Oslo II 33 (29 A.D.); Mich. V 311 (34 A.D.); Fouad I 40 (35 A.D.); Mich. V 313 (37 A.D.); Mich. II 121 (42 A.D.); recto, col. I, 1; col. II, 1; col. II, 6; col. II, 7; col. III, 8; col. III, 10; col. III, 11; col. IV, 2; Mich. V 315 (44—5 A.D.); Oxy. II 279 (44—5 A.D.); Bad. VI 170 (54 A.D.); BGU II 591 (56—7 A.D.); Ryl. I 171 (56—7 A.D.);

BGU II 644 (69 A.D.); Amh. 85 (78 A.D.); Amh. 86 (78 A.D.); PSI I 30 (82 A.D.); BGU II 526 (86 A.D.); Giss. Univ. Bibl. I [H. 4] 12 (87—88 A.D.); Princ. III 147 (87—88 A.D.); Lond. II 143 p. 182 (88 A.D.); Lond. II 283 p. 183 (88 A.D.); Oxy. II 280 (88—9 A.D.); Hamb. 5 (89 A.D.); Flor. I 85 (91 A.D.); PSI X 1134 (92 A.D.); Flor. I 368 (96 A.D.); PSI X 1135 (97 A.D.); Warr. 11 (98 A.D.); PSI VII 879 (98—9 A.D.); Bad. IV 86 (99 A.D.); Mich. V 314 (I cent. A.D.); BGU II 538 (100 A.D.); BGU IV 1067 (101—2 A.D.); Oxy. III 639 (103—4 A.D.); Hamb. 64 (104 A.D.); Jand. III 28 (104 A.D.); Jand. III 30 (105—6 A.D.); Oxy. XVIII 2188 (107 A.D.); PSI IX 1021 (109 A.D.); PSI IX 1030 (109 A.D.); Tebt. III 373 (110—11 A.D.); BGU III 918 (111—12 A.D.); Oxy. III 590 (112 A.D.); Corn. 10 (119 A.D.); Ryl. I 168 (120 A.D.); Lond. III 1223 p. 139 (121 A.D.); Mich. III 184 (121 A.D.); III 499 (121 A.D.); Mich. III 185 (122 A.D.); Würzb. 12 (123 A.D.); Amh. 87 (125 A.D.); Würzb. 13 (125 A.D.); Flor. I 20 (127 A.D.); Strassb. I 78 (127—8 A.D.); Amh. 88 (128 A.D.); Strassb. I 76 (128 A.D.); Oxy. III 500 (130 A.D.); Oxy. IV 730 (130 A.D.); Tebt. II 374 (131 A.D.); Flor. III 370 (132 A.D.); Würzb. 14 (132 A.D.); Fam. Tebt. 28 (133 A.D.); Tebt. II 311 (134 A.D.); Oxy. VI 810 (134—5 A.D.); Oxy. IV 707 (136 A.D.); Oxy. IV 729 (137 A.D.); PSI IV 315 (137—8 A.D.); Ath. 16 (138—61 A.D.); Oxy. X 1279 (139 A.D.); BGU II 661 (140 A.D.); Tebt. II 375 (140 A.D.); Ross.-Georg. II 19 (141 A.D.); Lond. II 438 p. 188 (142 A.D.); Oxy. I 101 (142 A.D.); Tebt. II 325 (145 A.D.); Flor. I 18 (147—8 A.D.); Lond. II 314 p. 189 (149 A.D.); PSI X 1124 (150 A.D.); Philad. 12 (150 or 173 A.D.); BGU I 227 (151 A.D.); Lond. III 858 a. p. 144 (153—4 A.D.); Philad. 15 (153—4 A.D.); Ath. 19 (154 A.D.); Berl. Leihg. 22 (155 A.D.); Philad. 13 (155 A.D.); Philad. 14 (155—6 A.D.); Oxy. I 13 (156 A.D.); BGU I 166 (157 A.D.); Mert. 17 (158 A.D.); Tebt. II 501 (158—9 A.D.); Amh. 90 (159 A.D.); Amh. 91 (159 A.D.); Lips. 118 (160—1 A.D.); Lond. II 168 p. 190 (162 A.D.); Tebt. II 376 (162 A.D.); PSI VII 739 (163 A.D.); PSI I 31 (164 A.D.); BGU I 237 (164—5 A.D.); BGU II 604 (167—8 A.D.); BGU II 603 (168 A.D.); Grenf. II 57 (168 A.D.); Princ. III 148 (172—3 A.D.); BGU III 920 (180 A.D.); BGU I 39 (186 A.D.); Oxy. III 501 (187 A.D.); Oslo. II 34 (188—9 A.D.); Fam.-Tebt. 44 (189 A.D.); Fouad I 43 (190—1 A.D.); Fam.-Tebt. 47 (195 A.D.); Ryl. I 169 (196—7 A.D.); Oxy. VI 910 (197 A.D.); Amh. 100 (198—211 A.D.); CPR I 31 (II cent. A.D.); CPR I 34 (II cent. A.D.); SB 5670 (II cent. A.D.); Corn. 11 (early III cent. A.D.); PSI V 468 (200 A.D.); BGU III 831 (201 A.D.); Ryl. I 170 (202—3 A.D.); PSI I 32 (208 A.D.); Tebt. II 377 (210 A.D.); Lond. II 350 p. 192 (212 A.D.); CPR I 45 (214 A.D.); CPR I 35 (216 A.D.); Strassb. I 2 (217 A.D.); CPR I 52 (218 A.D.); Bour. 17 (219—20 A.D.); Oxy. XVIII 2189 (220 A.D.); BGU II 633 (221 A.D.); PSI XII 1233 (223—4 A.D.); Ath. 17 (225 A.D.); CPR I 36 (225 A.D.); SB 7665 (225 A.D.); Oxy. XVIII 2137 (226 A.D.); SB 7441 (230 A.D.); Flor. III 383 (232 sqq. A.D.); Ryl. I 100 (238 A.D.); Flor. I 16 (239 A.D.); BGU I 253 (244—9 A.D.); BGU VII 1645 (245 A.D.); PSI IX 1069 (247—8 A.D.); Flor. I 19 (248 A.D.); Rend.-Harr. 80 (250 A.D.); CPR I 37 (251 A.D.); Stud. Pal. 20, 55 (251 A.D.); Berl. Leihg. 23 (252 A.D.); SB 7474 (254 A.D.); PSI VIII 880 (254—5 A.D.); Giss. I 50 (255 A.D.); Hamb. 20 (258 A.D.); Lond. III 954 p. 153 (260 A.D.); PSI IX 1070 (261 A.D.); SB 5126 (261 A.D.); Stud. Pal. 20, 70 (261 A.D.); CPR I 38 (263 A.D.); Tebt. II 378 (265 A.D.); CPR I 39 (266 A.D.); PSI I 33 (266—7 A.D.); CPHerm. 119 (267—8 A.D.) recto II, III, V, VII, VIII; Ath. 18 (Roman epoch); Strassb. I 10 (268 A.D.); SB 7443 (285 A.D.); BGU VII 1644 (294 ? A.D.)

PSI IX 1071 (296 A.D.); SB 7674 (296 A.D.); BGU IV 1017 (III cent. A.D.); BGU IV 1018 (III cent. A.D.); Berl. Leihg. 19 (III cent. A.D.); Oslo. III 137 (III cent. A.D.); PSI I 73 (III cent. A.D.); PSI IX 1082 (III cent. A.D.); Ryl. I 99 (III cent. A.D.); Gen. 78 (III—IV cent. A.D.); CPR I 40 (301 A.D.); BGU II 586 (302 A.D.); CPR I 41 (305 A.D.); Oxy. I 102 (306 A.D.); SB 7675 (313 A.D.); Cair. Preis. 40 (314 A.D.); Oxy. I 103 (316 A.D.); Lips. 19 (319 or 320 A.D.); Thead. 6 (322 A.D.); Gen. 10 (323 A.D.); SB 8019 (325 A.D.); Strassb. 137 (325 A.D.); SB 7666 (330 A.D.); Strassb. I 43 (331 A.D.); Vindob. Bosw. 9 (331 ? A.D.); Vindob. Bosw. 8 (332 A.D.); PSI V 469 (334 A.D.); Thead. 5 (338 A.D.); Flor I 17 (341 A.D.); Lond. III 979 p. 234 (346 A.D.); Cair.-Preis. 39 (347 A.D.); PSI IX 1078 (356 A.D.); Mert. 36 (360 A.D.); PSI V 467 (360 A.D.); PSI I 90 (364 A.D.); Flor. I 84 (366 A.D.); Flor. III 320 (373 A.D.); Lips. 23 (374 or 390 A.D.); Grenf. I 54 (278 A.D.); Gen. 70 (381 A.D.); Lips. 20 (381 A.D.); Gen. 67 (382 A.D.); Lips. 21 (382 A.D.); Lips. 22 (388 A.D.); PSI I 34 (397 A.D.); BGU II 519 (IV cent. A.D.); BGU III 938 (IV cent. A.D.); PSI III 187 (IV cent. A.D.); PSI IV 316 (IV cent. A.D.); CPR I 42 (IV ? cent. A.D.); Flor. III 315 (435 A.D.); Oxy. VI 913 (442 A.D.); Strassb. 148 (472 A.D.); SB 4481 (486 A.D.); Flor. III 325 (488 A.D.); Oxy. VIII 1126 (V cent. A.D.); PSI IX 1056 (V—VI cent. A.D.); Ross.-Georg. III 32 (504 A.D.); SB 7519 (510 A.D.); Cair.-Masp. I 100 (511 A.D.); Cair.-Masp. I 101 (511 A.D.); SB 7369 (512 A.D.); Flor. III 279 (514 A.D.); Flor. III 281 (517 A.D.); Flor. III 282 (520 A.D.); PSI IV 296 (520 A.D.); Lond. V 1698 (523 A.D.); Ross.-Georg. III 33 (523 A.D.); Flor. III 342 (524 A.D.); PSI VIII 931 (524 A.D.); Cair.-Masp. I 102 (526 A.D.); Cair.-Masp. III 300 (526 A.D.); Lond. V 1689 (527 A.D.); Lond. V 1690 (527 A.D.); Cair.-Masp. I 104 (530 A.D.); Lond. V 1695 (531 ? A.D.); Cair.-Masp. I 105 (532 A.D.); Lond. V 1691 (532 A.D.); Erl. 118 [N^o 75] (535—7 A.D.); Flor. III 283 (536 A.D.); Grenf. I 65 (536 A.D.); Ross.-Georg. III 36 (537 A.D.); Cair.-Masp. I 106 (539 A.D.); PSI III 188 (540 A.D.); Cair.-Masp. I 107 (540 ? A.D.); Lond. V 1697 (1st half of VI cent. A.D.); PSI IV 283 (550 A.D.); PSI I 77 (551—65 A.D.); Flor. III 285 (552 A.D.); Flor. III 286 (552 A.D.); BGU II 364 (553 A.D.); Lond. V 1765 (554 A.D.); Cair.-Masp. III 302 (555 A.D.); Lond. V 1692 (555—6 A.D.); Lond. III 1006 p. 261 (556 A.D.); Lond. IV 1873 (556 A.D.); Lond. III 1007 b p. 264 (558 A.D.); Grenf. I 57 (561 A.D.); Grenf. I 58 (561 A.D.); Lond. III 1003 p. 259 (562 A.D.); P. Berl. Inv. 16048 [*Zilliacus, Late byzant. land leases from Hermupolis*] (565 A.D.); Hamb. 23 (569 A.D.); P. Berl. Inv. 16050 [*Zilliacus l. c.*] (579 A.D.); Cair.-Masp. I 111 (585 A.D.); BGU I 303 (586 A.D.); P. Berl. Inv. 16055 [*Zilliacus l. c.*] (589 A.D.); Ross.-Georg. III 40 (589 A.D.); Lond. I 113 (4) p. 208 (595 A.D.); Giss. I 56 (VI cent. A.D.); Klein.-Form. 237 (VI cent. A.D.); Lond. I 113 (3) p. 207 (VI cent. A.D.); Lond. V 1693 (VI cent. A.D.); Lond. V 1694 (VI cent. A.D.); Lond. V 1696 (VI cent. A.D.); Lond. V 1770 (VI cent. A.D.); Lond. V 1878 (VI cent. A.D.); SB 5139 (VI cent. A.D.); SB 4486 (VI—VII cent. A.D.); Stud. Pal. 20, 218 (VI—VII cent. A.D.); Ross.-Georg. V 42 (602 A.D.); Ross.-Georg. III 49 (604—5 A.D.); Lond. V 1875 (630—1 A.D.); Ross.-Georg. III 51 (631 A.D.); Lond. III 1012 p. 265 (633 A.D.); P. Berl. Inv. 16166 [*Zilliacus l. c.*] (643 A.D.); BGU I 312 (658 A.D.); Mert. 49 (VII cent. A.D.); Ross.-Georg. III 55 (VII cent. A.D.); SB 4483 (VII cent. A.D.); Klein.-Form. 422 (VII—VIII cent. A.D.); BGU I 307 (Byz. epoch); BGU I 308 (Byz. epoch); Cair.-Masp. I 112 (Byz. epoch); Cair.-Masp. I 113 (Byz. epoch); Cair.-Masp. II 235 (Byz. epoch); Cair.-

and other immovable property²⁹, and also the lease and hiring of slaves³⁰, livestock³¹ and other movables³², lastly the *locatio-*

Masp. II 243 (Byz. epoch); SB 4727 (Byz. epoch); SB 4757 (Byz. epoch); SB 4770 (Byz. epoch); SB 4774 (Byz. epoch); SB 4789 (Byz. epoch).

²⁹ BGU VI 1282 (II—I cent. B.C.); BGU IV 1116 (13 B.C.); BGU IV 1117 = M. Chr. 107 (13 B.C.); Oxy. II 278 (17 A.D.); Mich. V 312 (34 A.D.); Stud. Pal. 22, 173 (40 A.D.); Mich. II 121 (42 A.D.); BGU III 916 (69—79 A.D.); Lond. II 216 p. 186 (94 A.D.); Rein. I 43 (102 A.D.); Stud. Pal. 22, 177 (137 A.D.); Lips. 16 (138 A.D.); Ryl. I 167 (139 A.D.); Tebt. II 372 (141 A.D.); Oslo III 139 (middle II cent. A.D.); Fay. 93 (161 A.D.); Oxy. III 502 (164 A.D.); Lond. II 335 p. 191 (166—7 or 198—9 A.D.); BGU II 393 (168 A.D.); Oxy. VIII 1128 (173 A.D.); Amh. 93 (181 A.D.); Oxy. VIII 1127 (183 A.D.); Fay. 95 (II cent. A.D.); PSI VII 787 (II cent. A.D.); Oxy. VI 911 (233—265 A.D.); Oxy. VI 912 (235 A.D.); Stud. Pal. 20, 53 (246 A.D.); SB 7442 (1st half of III cent. A.D.); SB 7814 (256 A.D.); Oxy. XVII 2109 (261 A.D.); Oxy. XVII 1036 (273 A.D.); BGU II 407 (III ? cent. A.D.); BGU III 1046 (III cent. A.D.); Flor. I, 10 (III cent. A.D.); Giss. I 49 (III cent. A.D.); PSI VII 707 (III cent. A.D.); Rend.-Harr. 79 (III cent. A.D.); SB 7444 (III—IV cent. A.D.); BGU II 606 (306 A.D.); Oslo II 138 (323 A.D.); Rend.-Harr. 82 (345 A.D.); Lips. 17 (377 A.D.); SB 7445 (382 A.D.); Giss. I 52 (397 A.D.); BGU III 940 (398 A.D.); Berl. Zill. 5 (417 A.D.); Oxy. XVI 1957 (430 A.D.); PSI VI 708 (436 A.D.); Oxy. VII 1037 (444 A.D.); PSI III 175 (462 A.D.); Bad. IV 91 b. (471 A.D.); Oxy. XVI 1958 (476 A.D.); Oxy. XVI 1889 (496 A.D.); Oxy. XVI 1959 (499 A.D.); Flor. III 384 (V cent. ? A.D.); SB 4706 (V cent. A.D.); SB 4753 (V cent. A.D.); Lond. III 1023 p. 267 (V—VI cent. A.D.); Flor. I 73 (505 A.D.); Oxy. XV 1966 (505 A.D.); Oxy. XVI 1890 (508 A.D.); Stud. Pal. 20, 131 (508 A.D.); Lond. III 994 p. 259 (517 A.D.); Oxy. XVI 1964 (518 A.D.); PSI V 466 (518 A.D.); SB 7340 (540 A.D.); Bad. IV 172 (547 A.D.); Strassb. I 4 (550 A.D.); Oxy. XVI 1965 (553 A.D.); Flor. I 15 (563 A.D.); Cair.-Masp. I 110 (565 A.D.); PSI VI 709 (566 A.D.); Oxy. VII 1038 (568 A.D.); Ross.-Georg. III 38 (ca 570 A.D.); Berl.-Zill. 7 (574 A.D.); Bad. II 30 (577 ? A.D.); Strassb. 190 (592 A.D.); Flor. I 38 (VI cent. A.D.); Lond. I 113 (6 a.) p. 212 (late VI cent. A.D.); Lond. V 1715 (VI cent. A.D.); PSI I 75 (VI cent. A.D.); SB 4492 (VI cent. A.D.); SB 4491 (VI—VII cent. A.D.); Lond. III 871 p. 268 (603 A.D.); Erl. 10 [N^o 73] (604 A.D.); Lond. V 1874 (605 or 613 A.D.); SB 5286 (607 A.D.); SB 5269 (618 A.D.); Lond. I 113 (6 b.) p. 214 (633 A.D.); Flor. III 306 (635 A.D.); Klein.-Form. 239 (VI—VII cent. A.D.); Klein.-Form. 411 (VII cent. A.D.); BGU III 841 (Byz. epoch); BGU III 900 (Byz. epoch); SB 4493 (Byz. epoch); SB 4434 (Byz. epoch); SB 4697 (Byz. epoch); Ross.-Georg. III 56 (707 A.D.).

³⁰ BGU IV 1058 (13 B.C.); BGU IV 1109 (5 B.C.); Grenf. II 59 (189 A.D.); Princ. III 151 (341 A.D. or later).

³¹ SB 6759 (247—6 B.C.); BGU III 912 (33 A.D.); Würzb. 11 (99 A.D.); PSI VIII 961 (176—8 A.D.); Strassb. I 30 (276 A.D.); SB 8086 (268 A.D.); Oslo III 135 (286—293 A.D.); Thead. 8 (306 A.D.); Flor. I 53 (327 A.D.); Thead. 9 (IV cent. A.D.).

³² Oxy. VII 1035 (143 A.D.); Cair.-Masp. III 303 (553 A.D.); Lond. V 1714 (570 A.D.).

*conductio liberarum personarum earumque operarum*³³, *locatio-conductio operarum*,³⁴ *locatio-conductio operis*³⁵ and the hiring of rights³⁶. In addition, terms are as a rule attached to contracts of loan³⁷

³³ BGU VII 1647 (129 A.D.).

³⁴ BGU IV 1122 verso (14—13 B.C.); PSI VIII 902 (I cent. A.D.); Ross.-Georg. II 18 (140 A.D.); Flor. I 74 (181 A.D.); SB 6946 (194 A.D.); BGU VII 1648 (II cent. A.D.); Stud. Pal. 20, 47 (II cent. A.D.); Gen. 73 = W. Chr. 496 (II—III cent. A.D.); Corn. 9 = SB 6945 (206 A.D.); Grenf. II 67 = W. Chr. 497 (237 A.D.); PSI VIII 873 (299 A.D.); Oxy. X 1275 (III cent. A.D.); Cair.-Masp. I 001 (514 A.D.); Strassb. I 40 (569 A.D.); SB 4490 (VII cent. A.D.); BGU I 310 (Byz. epoch); SB 4739 (Byz. epoch); BGU II 366 (Arab epoch); BGU II 404 (Arab epoch).

³⁵ With nurses: BGU VIII 1827 (52—1 B.C.); BGU IV 1106 (13 B.C.); BGU IV 1107 (13 B.C.); BGU IV 1108 (5 B.C.); BGU IV 1110 (5 B.C.); Ryl. I 178 (early I cent. A.D.); Rein. II 103 (26 A.D.); Rein. II 104 (26 A.D.); SB 7619 (26 A.D.); PSI III 203 (87 A.D.); Mey. 11 (201—40 A.D.); Ross.-Georg. II 18 (140 A.D.); with teachers (apprenticeship): BGU IV 1125 (13 B.C.); Tebt. II 384 (10 A.D.); Mich. V 346a. (13 A.D.); Mich. V 346b. (16 A.D.); Mich. II 121 (42 A.D.); Fouad I 37 (48 A.D.); Oslo III 141 (50 A.D.); Oxy. II 275 (66 A.D.); Tebt. II 385 (117 A.D.); Stud. Pal. 22, 40 (150 A.D.); Oxy. IV 724 (155 A.D.); Oxy. IV 725 (183 A.D.); PSI III 241 (III cent. A.D.); PSI IV 287 (377 A.D.); others: Corn. 4 (111 B.C.); Stud. Pal. 22, 35 (50 A.D.); Flor. I 101 (I cent. A.D.); Cair.-Preis. 31 (139—40 A.D.); Oxy. III 498 (II cent. A.D.); Oxy. I 140 = W. Chr. 438 (550 A.D.); Oxy. I 136 (583 A.D.); Oxy. XIX 2239 (598 A.D.); Lond. V 1796 (VI cent. A.D.); SB 6266 (VI cent. A.D.); SB 4503 (606 A.D.).

³⁶ PSI IX 1020 (110 B.C.); Fay. 36 (111—2 A.D.); Lond. III 906 p. 107—8 (128 A.D.); Ryl. II 98a. (154—5 A.D.); Amh. 92 (162—3 A.D.); Ryl. II 98 (172 A.D.).

³⁷ Cair.-Zen. I 001 (273 B.C.); Hib. 85 (261 B.C.); Cair.-Zen. II 173 (255 or 4 B.C.); Corn. 2 (248 B.C.); Hib. 86 (248 B.C.); PP III 55 (233 B.C.); Tebt. III 815 (228—21 B.C.) Frg. 4, recto col. I; Frg. 2, verso, col. II; BGU VI 1273 (222—1 B.C.); Ent. 46 (221 B.C.); BGU VI 1274 (218—17 B.C.); BGU VI 1275 (215—14 B.C.); BGU VI 1276 (215—14 B.C.); BGU VI 1277 (215—14 B.C.); BGU VI 1278 (215—14 B.C.); BGU III 1005 (III cent. B.C.); Tebt. III 817 (182 B.C.); Grenf. I 10 (174 B.C.); Tebt. III 818 (174 B.C.); Amh. 43 (173 B.C.); BGU VI 1272 (173 B.C.); Mich. III 190 (172 B.C.); Amh. 44 (138—7 B.C.); Grenf. II 16 (137—0 B.C.); Grenf. I 18 (132 B.C.); Bad. II 2 (130 B.C.); Grenf. I 20 (127 B.C.); Grenf. II 18 (127 B.C.); Grenf. I 23 (118 B.C.); Lond. II 225 p. 8 (118 B.C.); Tebt. I 111 (116 B.C.); Fay. 11 (115 B.C.); Amh. 32 verso (114 B.C.); Rein. I 9 (112 B.C.); Rein. I 8 (113—12 B.C.); Amh. 46 (113 B.C.); Amn. 47 (113 B.C.); Grenf. I 26 (113 B.C.); Grenf. II 21 (113 B.C.); Ross. Georg. II 6 (113 B.C.); Chic. 8 (111 B.C.); Rein. I 10 (111 B.C.); Lond. II 218 p. 15 (111 ? B.C.); Rein. I 13 (110 B.C.); Rein. I 14 (110 B.C.); Rein. I 15 (109 B.C.); Rein. I 16 (109 B.C.); Rein. I 31 (109 ? B.C.); Rein. I 20 (108 B.C.); Rein. I 22 (107 B.C.); Adl. 6 (106—5 B.C.); Amh. 48 (106 B.C.); Amh. 50 (106 B.C.); Grenf. I 29 (105 B.C.); Grenf. II 24 (105 B.C.); Rein. I 23 (105 B.C.); Rein. I 24 (105 B.C.); Rein. I 26 (104 B.C.);

Grenf. II 27 (103 B.C.); Rein. I 27 (103 B.C.); Grenf. II 29 (102 B.C.); Adl. 10 (101 B.C.); Adl. 15 (100 B.C.); Rein. I 28 (end II cent. B.C.); Rein. I 29 (end II cent. B.C.); Adl. 19 (98 B.C.); Tebt. I 110 (92 or 59 B.C.); UPZ I 125 (89 B.C.); Ryl. IV 587 (87 B.C.); Ryl. IV 588 (78 B.C.); Mert. 6 (77 B.C.); SB 7532 (74 B.C.); Freib. III 126 (Ptol. period); Ryl. I 602 (25 B.C.); BGU IV 1161 (24—3—14—13 B.C.); BGU IV 1162 (17—16 B.C.); BGU IV 1054 (13 B.C.); BGU IV 1055 (13 B.C.); BGU IV 1056 (13 B.C.); BGU IV 1057 (13 B.C.); BGU IV 1115 (13 B.C.); BGU IV 1147 (13 B.C.); BGU IV 1150, II (13 B.C.); BGU IV 1166 (13 B.C.); BGU IV 1167 col. III (12 B.C.); BGU IV 1170 col. I (10 B.C.); BGU IV 1172 (9 B.C.); BGU IV 1126 (8 B.C.); PSI X 1099 (5 B.C.); BGU IV 1145 (5 B.C.); BGU IV 1175 (5 B.C.); Mil. I 4 (3—2 B.C.); Berl. Möller 4 (3 A.D.); BGU I 189 (7 A.D.); Fay. 89 (9 A.D.); Lond. II 357 p. 165 (14—15 A.D.); PSI IX 1028 (15 A.D.); Corn. 6 (17 A.D.); BGU III 911 (18 A.D.); Princ. III 142 (ca 23 A.D.); Lond. II 277 p. 217 (23 A.D.); Mil. I 5 (24 A.D.); PSI IX 1051 (26 A.D.); Mich. V 336 (27 A.D.); Lond. III 1273 0. 174 (29 A.D.); Ryl. I 160 c. (32 A.D.); Ryl. I 173 (34 A.D.); BGU III 713 (41—2 A.D.); PSI X 1131 (41—4 A.D.); Mich. III 121 recto, col. III, 13 (42 A.D.); Ryl. I 160 d. (42 A.D.); SB 5110 (42 A.D.); PSI VIII 908 (42—3 A.D.); Fouad. I 44 (44 A.D.); Brem. 67 (44 or 58 A.D.); Fouad. I 47 (47 A.D.); Mich. V 332 (48 A.D.); PSI VIII 910 (48 A.D.); Rein. II 106 (51 or 65 A.D.); Mich. V 333—334 (52 A.D.); PSI VIII 911 [= Mich. V 335] (56 A.D.); Oxy. II 269 (57 A.D.); Hamb. 2 (59 A.D.); Mich. III 192 (60 A.D.); BGU III 910 (71 A.D.); SB 8952 B (78 A.D.); Oxy. XII 1471 (81 A.D.); Oxy. II 286 (82 A.D.); Fouad. I 48 (89 A.D.); Hamb. 30 (89 A.D.); Stud. Pal. 20, 2 (93 A.D.); Oxy. II 270 (94 A.D.); Fam.-Tebt. 4 (94 A.D.); Brem. 69 (98 A.D.); Tebt. II 388 (98 A.D.); Mey. 5 (98—117 A.D.); Oxf. 10 (98—117 A.D.); Brem. 68 (99 A.D.); Fam.-Tebt. 6 (99 A.D.); Fouad. I 49 (99 A.D.); Princ. II 32 (99 A.D.); Ryl. I 173a. (99 A.D.); Rend.-Harr. 84 (I cent. A.D.); SB 7988 (I—II cent. A.D.); Oxy. III 510 (101 A.D.); Flor. I 81 (103 A.D.); Mert. 14 (103 A.D.); Ross. Georg. II 7 (107 A.D.); BGU III 857 (113 A.D.); Rend.-Harr. 85 (117 A.D.); Bas. 7 = SB 4434 (117—138 A.D.); Oslo. III 131 (118 A.D.); Hamb. 32 (120 A.D.); Mich. III 188 (120 A.D.); Fam.-Tebt. 22 (122 A.D.); Mich. III 189 (123 A.D.); Tebt. II 312 (123—4 A.D.); Fouad. I 51 (126 A.D.); BGU I 339 = M. Chr. 250 (128 A.D.); Flor. I 72 (128—9 A.D.); BGU I 70 = M. Chr. 175 (131 A.D.); Fouad. I 41 (131 A.D.); PSI VIII 962 (131—2 A.D.); Ath. 21 (132 A.D.); BGU II 465 (137 A.D.); BGU I 272 (138 A.D.); BGU IV 1014 (138 A.D.); Strassb. I 13 (138—161 A.D.); Stud. Pal. 22, 83 (138—61 A.D.); BGU II 472 (139 A.D.); Cair.-Preis. 31 (139—40 A.D.), VII, VIII; Ross.-Georg. II 18 (140 A.D.); LXXVIII; Tebt. II 389 (141 A.D.); Oxy. I 98 (141—2 A.D.); Oxy. III 506 (143 A.D.); Lond. II 308 p. 218 (145 A.D.); Lond. III 1229 p. 142 (145 A.D.); Stud. Pal. 22, 36 (145 A.D.); Oslo. II 39 (146 A.D.); Oslo. III 132 (147 or 156 A.D.); Lond. II 311 p. 219 (149 A.D.); Oslo. II 40a. (150 A.D.); Oslo. II 40b. (150 A.D.); Oxf. 11 (151 A.D.); Strassb. I 52 (151 A.D.); Flor. I 1 (153 A.D.); PSI X 1142 (154—5 A.D.); Vars. 10 (156 A.D.); BGU III 800 (158 A.D.); = Giss. I 96 (160 A.D.); Strassb. 204 (161—9 A.D.); Lond. II 336 p. 221 (167 A.D.); Ath. 22 (167 ? A.D.); Tebt. II 390 (167 ? A.D.); Ryl. I 175 (168 A.D.); Oxy. III 507 (169 A.D.); Oxy. XVII 2134 (ca 170 A.D.); Oxy. III 485 = M. Chr. 246 (178 A.D.); Flor. I 28 (179 A.D.); PSI XII 1253 (186 A.D.); BGU II 578 (187 A.D.); Stud. Pal. 22, 69 (187 A.D.); Bour. 15. (II cent. A.D.); Flor. III 316 (II cent. A.D.); Oslo. III 133 (II cent. A.D.); Oslo.

and sometimes also to those of deposit³⁸ and partnership³⁹. Terms are also encountered in wills⁴⁰ and several other deeds⁴¹.

III 140 (II cent. A.D.); Stud. Pal. 22, 24 (II cent. A.D.); Princ. III 144 (early III cent. A.D.); Rend.-Harr. 83 (212 A.D.); BGU VII 1652 (just after 212 A.D.); Mert. 25 (214 A.D.); Oxy. XII 1474 (216 A.D.); SB 7 (216 A.D.); Lips. 8 (220 A.D.); SB 7467 (221 A.D.); Lond. III 939 p. 174 (225 A.D.); Oxy. VI 1040 (225 A.D.); BGU II 989 (226 A.D.); Gen. 53 (226 A.D.); Lond. III 1243 p. 176 (227 A.D.); SB 4370 (228—9 A.D.); Lips. 9 (233 A.D.); Fay. 90 (234 A.D.); SB 5125 (238 A.D.); Lips. 10 (240 A.D.); Hamb. 55 (241 A.D.); PSI IX 1068 (246 A.D.); Ryl. I 177 (246 A.D.); Lips. 11 (247 A.D.); Fouad I 52 (middle III cent. A.D.); Gen. 9 (251 A.D.); BGU VII 1649 (264 A.D.); Vindob.-Bosw. 12 (286—7 A.D.); Oslo. II 37 (295 A.D.); SB 5150 (297 A.D.); Flor. I 46 (III cent. A.D.); PSI VI 701 (III cent. A.D.); Strassb. 143 (III cent. A.D.); Thead. 10 (307 A.D.); Flor. I 54 (314 A.D.); Lond. 975 p. 230 (314 A.D.); Lond. III 976 p. 230 (315 A.D.); Bad. II 27 (316 A.D.); Flor. I 14 (328 A.D.); Thead. 12 (330 ? A.D.); Oslo. II 41 (331 A.D.); Flor. I 30 (362 A.D.); Mert. 37 (373 A.D.); Oslo. 38 (374 or 375 A.D.); BGU III 343 (389 A.D.); Giss. I 53 (IV cent. A.D.); PSI I 42 (IV cent. A.D.); Oxy. XVI 1974 (409 A.D.); Oxy. XVI 1973 (420 A.D.); Rend.-Harr. 86 (444 A.D.); Oxy. XVI 1969 (484 A.D.); Oxy. VIII 1130 (484 A.D.); Oxy. VIII 1130 (484 A.D.); Flor. I 94 (491 A.D.); Oxy. XVI 1891 (495 A.D.); Oxy. XIX 2237 (498 A.D.); Flor. III 343 (V cent. A.D.); PSI I 78 (V cent. A.D.); Rend.-Harr. 88 (V cent. A.D.); SB 6259 (V—VI cent. A.D.); Flor. III 280 (514 A.D.); Cair.-Masp. II 125 (525 A.D.); Cair.-Masp. III 308 (526 or 541 A.D.); SB 7201 (538 A.D.); Lond. V 1719 (541 A.D.); Cair.-Masp. III 127 (544 A.D.); Ross.-Georg. III 37 (545 A.D.); Oxy. I 133 (550 A.D.); Oxy. XVI 1970 (554 A.D.); Cair.-Masp. II 162 (568 A.D.); Cair.-Masp. II 163 (569 A.D.); BGU III 838 (578 A.D.); Oxy. XVI 1892 (581 A.D.); Oxy. XVI 1976 (582 A.D.); Erl. 9 [N^o 67] (590 A.D.); Flor. III 300 (597 A.D.); PSI III 239 (599 A.D.); Klein.-Form. 255 (VI cent. A.D.); Lond. III 1037 p. 275 (VI cent. A.D.); Princ. III 145 (VI cent. A.D.); PSI I 63 (VI cent. A.D.); PSI VIII 964 (VI cent. A.D.); Rend.-Harr. 81 (VI cent. A.D.); Klein.-Form. 416 (VI—VII cent. A.D.); SB 5258 (607 A.D.); BGU III 725 (618 A.D.); BGU I 314 (630 A.D.); P. Erl. 18 [N^o 68] (VII cent. A.D.); SB 5243 (VII cent. A.D.); BGU III 726 (Byz. epoch); BGU III 740 (Byz. epoch); SB 44 98 (Byz. epoch); SB 5690 (Byz. epoch); BGU III 751 (Byz.-Arab. epoch); SB 5664 (without date).

³⁸ Grenf. I 14 (150 or 139 B.C.); BGI III 729 (144 A.D.); BGU II 520 (172 A.D.); Fouad I (I or II cent. A.D.); BGU II 637 = M. Chr. 336 (212 A.D.); Thead. 3 (299 A.D.) see however T a u b e n s c h l a g, *Law* I 265 who sees the characteristic feature of the deposit in the circumstance that it may be demanded at any time and states that this trait, among others, makes it different from the loan.

³⁹ Mich V 348 (27 A.D.); Bour. 13 (98 A.D.); Oxf. 12 (153—4 A.D.); Amh. 94 = W. Chr. 347 (208 A.D.); Lips. 18 (III—IV cent. A.D.); Oxy. X 1280 (IV cent. A.D.); Lond. V 1794 (487 A.D.); Lond. V 1705 (1st half of VI cent. A.D.); Cair.-Masp. II 158 (568 A.D.); Lond. V 1795 (VI cent. A.D.).

⁴⁰ See K r e l l e r, *Erb. Unt.* 18 ff, 356 and the sources cited there in which are established some rights, regularly for the whole life of a person.

⁴¹ Such as alimentary agreements: SB 7612 (II—III cent. A.D.) cf. T a u - c n s c h l a g, *Law* I 307.4. On *commodatum* for a fixed time in local law see

The starting term (*dies a quo*) appears in sources for the most part as the day on which, according to the contract, the effects of the legal transaction have to begin⁴². Instead of a day, mention is often made of a month⁴³ or a year⁴⁴, in which case certainly the first day of the respective year or month is meant as starting term⁴⁵. However, sometimes the *dies a quo* is indicated in another way: for instance in quite a number of lease contracts the parties agree that the effects of the transaction entered into have to begin "with the harvest⁴⁶".

Interesting conclusions may be drawn from the comparison of the *dies a quo* with the date of the conclusion of the contract. We will find namely that the *dies a quo* may coincide with this date⁴⁷ (a circumstance often expressly stated in the contract by

I d e m, *Aegyptus* XIII, 238 ff., *Law* I 267 and the sources cited there. Hypothecation for a fixed term — *ibid.* 213.

⁴² See e.g. (I am citing only one document from each epoch): Lond. III 1168 p. 135 l. 6; Lond. V 1691 l. 8 (lease of land); BGU VI 1282 l. 7; Stud. Pal. 22, 173 l. 11; SB 7445 l. 7 f. (lease of immovables); Grenf. II 59 l. 11 f. (hire of slaves); BGU III 912 l. 14 f. (lease of livestock); Oxy. VI 1035 l. 8 f. (lease of other movables); Ross.-Georg. II 18, LXXII l. 30; PSI VIII 873 l. 9 ff. (*l.-c. operarum*); Rein. II 103 l. 9; Oxy. I 140 l. 9 ff. (*l.-c. operis*); Tebt. III 815 Frg. 2, verso, col. II l. 34 f.; BGU IV 1055 l. 12 f.; Thead. 10 l. 10 (loan); Bour. 13 l. 1; Lond. 1794l. 10 f. (*societas*).

⁴³ See e.g. (for each period): Tebt. III 815 Frg. 7 l. 4; BGU IV 1119 l. 5; Gen. 10 l. 12 (lease of land); BGU IV 1116 l. 6; BGU II 606 l. 6 (lease of immovables); BGU IV 1058 l. 8 f.; Princ. III 151 l. 10 (hire of slaves); SB 8086 l. 12; Thead 8 l. 11 f. (hire of livestock); BGU IV 1106 l. 8 f.; PSI IV 287 l. 9 f. (*l.-c. operis*); Lond. III 906 p. 107 f. l. 7, (*lease of rights*); Tebt. III 815 Frg. 4, recto, col. I l. 27; BGU IV 1054 l. 7; Thead. 12 l. 10 f. (loan); Grenf., I 14 l. 19 f.; Thead. 3 l. 23 (*depositum*); SB 7612 l. 5 f. (alimentary agreement).

⁴⁴ As a rule in contracts of lease of land cf. *Mitteis, Grdz.* 197, see e.g. Frankf. 4 l. 12; Ryl. I 601 l. 5; SB 7443 l. 6. From other kinds of contracts see e.g.: Berl.-Zill. 7 l. 9; Mich. V 312 l. 15 (lease of immovables); Strassb. I 30 l. 8 f. (hire of livestock); BGU IV 1120 verso l. 6, (*l.-c. operarum*); Tebt. II 384 l. 3 cf. l. 22 f., (*l.-c. operis*); Oxf. 11 l. 13, (loan); Mich. V 348 l. 14 f.; Amh. 94 l. 4 (*societas*).

⁴⁵ Cf. e.g. BGU VI 1273 a deed of loan for one year (see the commentary of the editor p. 71).

⁴⁶ This appears especially in the Byzantine period from the end of the V cent. A.D. (see e.g. Vindob.-Bosw. 9 l. 6 f.; PSI I 77 l. 9 ff.; Cair.-Masp. II 243 l. 17 f.) but occurs also in the Ptolemaic (cf. Hib. 90 l. 5 f.) and Roman (cf. SB 7666 l. 5 f.) periods.

⁴⁷ See e.g. (for each period): Ross.-Georg. II 19; Lond. V 1691 (lease of land); BGU VI 1282; Oxy. II 278; Oxy. XVI 1959 (lease of immovables); BGU III

the parties⁴⁸) or the *dies* may fall before⁴⁹ or after⁵⁰ the date of the conclusion of the contract. In the last case, the span of time between both dates is first of all determined by circumstances of an economic nature: for instance in leases it is connected with the temporary supply and demand of land, buildings or other lease objects⁵¹. But when the parties sign the contract at a later date than the *dies a quo* indicated in the contract, it is equally possible that the agreement was made previously orally or that it was really made on the day on which it was signed, but to make the settling of accounts easier it was decided that its effects would have begun already on a past date (for instance, the first of a month⁵²).

The closing term (*dies ad quem*) may be fixed — just as the starting one — on a definite day⁵³ or month⁵⁴; in the last case, it is to be understood that the effects of the legal relation are to cease on the last day of the month⁵⁵. In loan contracts the closing term

912, (hire of livestock), BGU VII 1647, (*l.-c. lib. pers.*); Cair.-Preis. 31, III; SB 4503 *l.-c. operis*); Adl. 10; Flor. I, 1; Cair.-Masp. II 162 (loan).

⁴⁸ Using the expression ἀπὸ τῆς σήμερον ἡμέρας ἤτις ἐστὶν κτλ. cf. e. g. Cair.-Masp. II 162 l. 20 ff.

⁴⁹ See e. g. Giss. I 37; BGU I 197; SB 7443 (lease of land); BGU IV 1116; BGU II 606 (lease of immovables); BGU IV 1058 (hire of slaves); Strassb. I 30 (hire of livestock); BGU IV 1122 verso (*l.-c. operarum*) all three from the Roman period; Oxy. IV 724; PSI IV 287 (*l.-c. operis*); PSI IX 1020 (lease of rights); UPZ I 125; Oxy. XVII 2134 (loan); Mich. V 348, (*societas*).

⁵⁰ See e. g. Hib. 90; BGU IV 1119; Flor. III 320 (lease of land); Mich. V 312; Lips. 17 (lease of immovables); Lond. V 1714 (lease of movables); Corn. 9 = SB 6945; Strassb. I 40 (*l.-c. operarum*); Tebt. II 385, (*l.-c. operis*); GBU VI 1273; Tebt. II 389, (loan); Bour. 13, (*societas*).

⁵¹ Cf. Waszyński, *Bodenpacht* I 66 ff.; Berger, *Wohnungsmiete u. Verwandtes* (Z. f. vgl. Rw. XXIX) 374 f.; Heichelheim, *Wirtschaftliche Schwankungen*.

⁵² Cf. Berger, l. c. 376.

⁵³ See e. g. (for each period): BGU VI 1282 l. 8; Oxy. II 278 l. 6; Oxy. XVI 1890 l. 5 (lease of immovables; it may be mentioned that in deeds of land lease the *dies ad quem* is not indicated directly but by fixing the number of years of duration); BGU III 912 l. 15 (hire of livestock); Flor. I 74 l. 7; BGU II 366 l. 9 (*l.-c. operarum*); PSI III 203 l. 5, (*l.-c. operis*); PSI IX 1020 l. (lease of land); Grenf. I 14; Fouad. I 58, (*depositum*).

⁵⁴ See e. g.: Rein. I 43 (lease of immovables); PSI IV 2871 l. 10 (*l.-c. operis*); BGU II 520; Thead. 3 (*depositum*).

⁵⁵ Cf. Bas. 7 = SB 4434 (a loan) see Rabel, the introd. p. 35: "...rückzahlbar im Mecheir also bis zum letzten Tag des Mecheirs des nächsten Jahres".

appears as the date by which the debt is to be payed⁵⁶. Often it is not indicated directly but may be established from the circumstance that the parties state in the contract the number of days or years during which the legal relationship is to remain in force⁵⁷. Sometimes a contract is concluded for the whole life-time of a person⁵⁸. In the Byzantine epoch, the designation of the date on which the lease of land and immovables must cease is most often left to the pleasure of the lessor⁵⁹.

The time for which the legal relationship has to last, and which can be established by comparing the *dies a quo* with the *dies ad quem* stated in the given contract, oscillates between five days in a contract with girl-dancers⁶⁰ and several decades in some con-

⁵⁶ In the form ἀποδώσω σοί followed by the indication a definite day (see e. g. for each epoch: Cair.-Zen. II 173 l. 30; Oxy. II 269 l. 5 f.; Thead. 10 l. 10) or more often a month (see e. g.: Cair.-Zen. I 001 l. 10; PSI X 1099 l. 6 f.; Vindob.-Bosw. 12 l. 10) and once, SB 5150 l. 2, the term τῆ τρίτῃ δεκάδι τοῦ εἰσιόντος μηνός is used. Sometimes appears the expression μέχρι ἢ ἕως (see e. g. Tebt. III 815 Frg. 2, verso col. II l. 35 f.; Hamb. 2 l. 12 and BGU III 1005 l. 4 f.). In other cases the number of months (ἀποδώσω σοί ἐν μηνῶν... κτλ. see e. g.: BGU IV 1162 l. 3; BGU IV 1147 l. 9; Cair.-Masp. II 162 l. 20) or days (see e. g.: BGU IV 1057 l. 9; Flor. III 343 l. 5 f.) is given. In Flor. I 1 l. 5—6 the loan is to be repaid πληρωθείσης τῆς διετίας. See Taubenschlag, *Law* I 261.

⁵⁷ As a rule, this is to be found in contracts of land lease. Sometimes other forms are used to denote the *dies ad quem*: e. g. Lond. V 1714 l. 28 (lease of movables) μέχρι περαιώσεως τοῦ αὐτοῦ χρόνου, similarly Cair.-Masp. II 159 l. 19 f. (a contract of partnership). The tresting-time as *dies ad quem* occurs in Oxy. XVI 1976 l. 19 f.; Rend.-Harr. 81 l. 3 (deeds of loan). Quite unusual is the way in which the duration of the lease of land is fixed in Lond. V 1689; it is to last (l. 9 f.) "as long as my tenancy of the holding of the most honourable Megas continues"; a similar case is to be found in Lond. III 1037 which contains an acknowledgement, addressed by a tenant to his landlord, of the receipt of an advance of money to be used for the irrigation of a vineyard and to be repaid when he resigns his tenancy (l. 10 ff.).

⁵⁸ The s. c. *dies certus an incertus quando* cf. e. g. Cair.-Masp. I 001 l. 10, 12 (l.—c. *operarum*) see Taubenschlag, *Law* I 286 and note 21. Cf. also note 14 above.

⁵⁹ See on this question: Waszyński, *Bodenpacht* 92 ff.; P. Meyer, *P. Giss.* I, p. II 99 (introd. to No. 56); Mitteis, *Grundz.* 197; Berger, *Wohnungsmiete* 370 ff.; Zer'teli, *P. Ross.-Georg.* III p. 201 (introd. to No. 49); Zilliacus, *Vierzehn Berl. Pap.* p. 49 (comment. ad No. 5 l. 9), 63 (ad No. 7 l. 27); Taubenschlag, *Law* I 273, 276; Zilliacus, *Late Byzantine Land Leases* p. 15 (comment. ad P. Berl. Inv. 16166 l. 11).

⁶⁰ Cf. BGU VII 1648 l. 5, a similar case Flor. I 74.

tracts, especially those of land lease⁶¹. It is to be noted here that a very long term of duration of a legal relationship may sometimes be a means by which a certain contract hides a transaction of a quite different type: for instance, we find in Oxy. XVII 2136 (291 A.D) a case of hiring a boat for fifty years against a single payment; this is really a purchase at which the seller wanted to keep nominally the ownership⁶².

The legal importance of the term consists, of course, in the circumstance that the failure to keep the term causes consequences provided for in the law, thus giving to the entitled party the means to enforce its claim by way of a legal suit.

III. Modus

By the term of *modus*⁶³, in the sense which is of interest for us here, the doctrine⁶⁴ defines the clause by which a person benefiting by a gratuitous legal act is directed to behave in a certain manner.

In papyri sources there are to be found instances of *modi* in acts between living persons as well as in wills. To the first group belong gift⁶⁵ and so-called *divisiones parentis inter liberos* with immediate effect⁶⁶. From among this second category we may mention BGU 183⁶⁷, where two children endowed with a donation are directed to pay a certain debt of the donator, their mother⁶⁸, and in addition are burdened with the order to pay in equal parts the costs of her funeral in future⁶⁹. In another document of similar

⁶¹ See the sources and literature quoted by Taubenschlag, *Law I* 203 note 23; 204 f. and note 1. On the duration of some contracts see: Waszyński l. c. 90 (contracts of land lease); Berger l. c. 369 f. (contracts of lease of immovables); Eitrem, *P. Oslo III* p. 212 (διδασκαλικά). The size of the present article makes it impossible to give an elaborated analysis of the length of duration of every kind of contracts.

⁶² Another case of such kind: BGU IV 1157.

⁶³ On the meaning of this term see Weiss, art. *Modus*, R.E. XV, 2334 f.

⁶⁴ Cf. the definition, Arangio-Ruiz, *Istituzioni* (10 ed.) 91.

⁶⁵ For the Roman law see Schulz, *Classical Rom. Law* 489, 568.

⁶⁶ See on them Taubenschlag, *Law I* 155 and the lit. cited there. Although in their essence the *divisiones parentis* are an execution of the testament during the life-time of the testator, they ought to be held as acts *inter vivos*, because of their immediate consequence.

⁶⁷ = M. Chr. 313 (85 A.D.) cf. Kreller, *Erb. Unt.* 369, 371.

⁶⁸ L. 23 f. Analogous regulations in wills see below notes 82, 83.

⁶⁹ L. 24 — cf. below note 84.

kind⁷⁰ the *modus* establishes for three daughters the duty to pay a life annuity to their mother who performs the division of her possessions⁷¹. The cases described above show what was the legal practice among the Greeks.

The Roman sphere is illustrated by deeds of donation⁷² in which are to be found injunctions to perform ritual ceremonies in favour of the donor's soul, as can be seen in the Byzantine ἔγγραφος δωρεά Cair-Masp. I 67003⁷³. In this connection we may point out the analogy with donations known already to the old Egyptian law, namely donations to temples and sacerdotal colleges which also included *modi* of similar contents⁷⁴.

As to testamentary deeds, instances of *modi* are to be found chiefly in Greek⁷⁵ and Roman wills⁷⁶ and in so-called *donationes*

⁷⁰ BGU IV 1013 (the time of Claudius or Nero) l. 12 f. — cf. below note 81.

⁷¹ See similar regulations Oxy. III 472 = M. Chr. 235 (ca. 130 A.D.) col. III l. 41 ff. and BGU I 86 = M. Chr. 306 (155 A.D.); l. 14 ff. Cf. also Fay. 97 = M. Chr. 315 (78 S.D.), a receipt of a sum due from a *divisio parentis* which may hide a *modus*, see Kreller l. c. 209 ff., 306 and the documents cited there note 9. May be, there is also an instance of *modus* in Grenf. II 71 = M. Chr. 190 (244—8 A.D.) col. II l. 1 ff.

⁷² Proper deeds of donation are very rarely to be found in the papyri because of a tendency not favouring gifts, cf. Welles, *Sav. Z.* 56, 110 ff.

⁷³ (ca. 522 A.D.) l. 21 ff. cf. Partsch, *Gött. Gel. Anz.* 1911 p. 311; Bruck, *Tonenteil u. Seelgerät* 304 f. See also Cair.-Masp. 67250 descr. (the epoch of Justin II).

⁷⁴ See Taubenschlag, *Law* I 48.

⁷⁵ Eleph. 2 = M. Chr. 311 = P. Meyer, *JP* No. 23 (285—4 B.C.) l. 10 ff.; PP III 19 (243 B.C.) l. 19; PP III 19 c. (225 B.C.) l. 25 ff.; Grenf. I 21 (126 B.C.) l. 14, 16 ff., 19 f.; Oxy. II 379 descr. (81—96 A.D.); Oxy. I 104 (96 A.D.) l. 17, 22 ff.; BGU VII 1654 (98—117 A.D.) l. 15 ff.; Oxy. III 493 = M. Chr. 307 (early II cent. A.D.) l. 5; Oxy. III 649 descr. (early II cent. A.D.); Oxy. III 489 (117 A.D.) l. 9, 10 f., 17 f.; Oxy. III 491 (126 A.D.) l. 6 ff.; Oxy. III 634 descr. (126 A.D.); Oxy. III 492 (130 A.D.) l. 7 ff.; Ryl. I 153 (138—61 A.D.) l. 3 ff., 25 ff., 29 f., 33; A. Sansica, *Acme* I, 233 ff. (138 A.D.) l. 10 ff.; Oxy. III 494 (156 A.D.) l. 16 ff., 22 ff.; Oxy. III 495 (181—9 A.D.) l. 10 ff. cf. Kreller, l. c. 362 ff.; Taubenschlag, *Law* I 144. For the Greek law cf. Bruck l. c. 256 ff.

⁷⁶ P. Berol. Inv. 7124 I, 1 (ed. Castelli, *Studi scuola pap.* II, 80 f.) (131 A.D.); BGU VII 1695 (157 A.D.) l. 2—3; BGU VII 1655 (169 A.D.) l. 20 ff.; SB 7630 (the time of Marcus Aur. and Commodus) l. 10 f.; BGU I 326 = M. Chr. 316 (189 A.D.) col. I l. 9 f.; col. II l. 11 f.; Lips. 29 = M. Chr. 318 (295 A.D.) l. 9 ff.; Lips. 30 = W. Chr. 500 (III cent. A.D.); PSI IX 1040 (III cent. A.D.) l. 30 ff.; Ant. I (460 A.D.) l. 22 f.; Cair.-Masp. III 312 (567 A.D.); Cair.-Masp. I 67151 (570 A.D.) l. 94 ff., 123 ff., 134 145, 154 ff.; 156 ff., 160 ff., 285 ff.; Oxy. XVI 1901 (VI cent. A.D.) l. 48 ff.; Lond. I 77 = M. Chr. 319 (end of VI cent. A.D.)

*mortis causa*⁷⁷. To classify these *modi* from the point of view of their contents⁷⁸, we may first of all distinguish two essential kinds of clauses, according to whether the favoured person has to behave actively, that is has to act in a definite manner, or has to abstain from certain actions.

A. Again, the positive activity of the person who receives a gift may consist in a legal act taking, as a rule, the form of a payment or in some actual doing. Among such payments, the first category is composed of acts which benefit certain persons and which have their source in the testator's will to bestow favours on these persons. The advantage of the donees may consist in getting a certain sum of money or some quantity of natural goods; getting it once for all — as illustrated by Greek testaments⁷⁹ and *donationes mortis causa*⁸⁰,—or through repeated deliveries, for the most part of maintenance allowance for the family members⁸¹.

l. 56 ff.; Cair.-Masp. III 67324 (Byzant. epoch) l. 5 ff. — cf. Kreller, l. c. 385 ff.; Taubenschlag, *Law* I 148 and note 30.

⁷⁷ Fouad. I 33 (I cent. A.D.) l. 28 f.; Tebt. II 381 (123 A.D.) l. 14 f.; 16 ff., 18 f.; Münch. 8 (ent of VI cent. A.D.) l. 4 ff., 14 ff., 23 ff. It is not possible to assert which legal acts produced the *modi* mentioned in BGU IV 1151 (13 B.C.) cf. Kreller l. c. 362; BGU III 896 (the time of Marcus and Verus) l. 7 cf. l. c. 369; Oxy. III 638 descr. (112 A.D.) cf. l. c. 363 f.; BGU I 187 (159 A.D.) cf. l. c. 366; Oxy. XIV 1721 (187 A.D.) l. 16 cf. Taubenschlag, *Law* I 144 n. 13; Fay. 124 (II cent. A.D.) cf. Kreller l. c. 365; Lond. III 992 (211 A.D.) l. 9, 20 f. cf. l. c. 365.

⁷⁸ On other criteria is based the division of Kreller (l. c. 362 ff.) who distinguishes the following kinds of *modi* in wills: 1. the imposing of payments in favour of certain persons; 2. the orders to act or to refrain from acting; 3. the imposing of the duty to pay the charges of the inheritance; 4. (a separate group) interdictions for persons not benefiting by the will, to act against its provisions.

⁷⁹ PP III 19 c. l. 25 ff.; Grenf. I 21 l. 19—20; Oxy. II 379 descr.; Oxy. I 104 l. 22 ff.; Oxy. III 491 l. 6 ff.; Oxy. III 634 descr. See also Oxy. III 638 descr.; Oxy. III 649 descr.; Oxy. XIV 1721 l. 16 ff. cf. Kreller, l. c. 363 ff.

⁸⁰ Cf. Tebt. II 381 l. 14 cf. Kreller l. c. 364.

⁸¹ Cf. from the Ptolemaic period: Elef. 2 = M. Chr. 311 l. 10 ff.; Grenf. I 21 l. 16 ff.; and from the Roman period: Oxy. III 638 descr., Ryl. I 153 l. 3 ff.; BGU I 86 = M. Chr. 306 l. 14 ff.; Oxy. III 495 l. 10 ff.; Lond. III 932 l. 9, 20 f. cf. Kreller l. c. 364 ff.; see also the strong remonstrance addressed by a relative or friend to a man who was defrauding his mother of some allowance in Fay. 124 (II cent. A.D.) cf. l. c. 365. As a separate group are to be mentioned the *modi* containing injunctions to supply the slaves left by the testator to the benefiting person or to another one with food and clothes: Oxy. III 489 l. 9, 17; Ryl. I 153 l. 29, 33.

The second category of the said payments consists of those which have their source in private and public obligations of the person making last will dispositions. There may be certain debts incurred during the lifetime of the donor, as for instance in Oxy. I 104⁸², or all his liabilities altogether⁸³. One finds frequently in sources a *modus* stipulating that the donee should pay the costs of the testator's funeral⁸⁴.

In this connection let us mention the *modus* in the form of which is clad an injunction to carry out the funeral⁸⁵. This belongs to the group of *modi* which are concerned with some actual performance. It will be worth while to remember here the interesting circumstance, already pointed out in the literature⁸⁶, that in the late Byzantine epoch modal clauses of such kind were in purely Christian circles associated with old Egyptian religious forms⁸⁷.

Closely connected with injunctions concerning the carrying out of a funeral are those which refer to posthumous rites⁸⁸ and which

⁸² (96 A.D.) l. 17: Areotas (the heir) shall yearly give 48 dr. to Atreus (the husband of the testatrix) the payments reach the total sum owed by the testatrix to Atreus cf. Kreller l. c. 364; see also BGU I 183 = M. Chr. 313 l. 23 ff.; Cair.-Masp. I 67151 l. 275—293 cf. l. c. 369, 386.

⁸³ Cf. the Greek testaments: BGU VII 1654 l. 15 ff.; Oxy. III 491 l. 6; Oxy. III 493 l. 5; A. Sansica, *Acme* I p. 233 l. 10 ff.; Oxy. III 494 l. 22; Oxy. III 495 l. 9 cf. Kreller l. c. 368 ff.; the Roman testaments: P. Ant. I 1. 22 ff.; Cair.-Masp. I 67151 l. 94 ff. cf. l. c. 386 and the *donatio m. c.* Tebt. II 381 l. 18. See also Lond. III 932 (211 A.D.).

⁸⁴ Cf. the Greek testaments: Elef. 2 = M. Chr. 311 l. 10 ff.; PP III 19 l. 19; Oxy. III 493 = M. Chr. 307 l. 5 cf. Kreller l. c. 369; the Roman testaments: BGU VII 1695 l. 2—3; BGU VII 1655 l. 20 ff. cf. Taubenschlag, *Law* I 148 n. 30; and the *donatio m. c.* Fouad. I 33 l. 28; see also the sources cited in the following note.

⁸⁵ Cf. the Roman testaments: P. Berol. 7124 I, 1 (Castelli, *Studi sc. pap.* II, 80 ff.); BGU I 326 = M. Chr. 316 col. II l. 1 f.; Lips. 30; Cair.-Masp. I 67151 l. 160—168; Oxy. XVI 1901 l. 48 ff.; Lond. I 77 = M. Chr. II 319 l. 56 ff. and also BGU III 896 l. 7 — cf. Kreller l. c. 386; Taubenschlag, *Law* I 148 n. 30; see also the *donationes m. c.* Tebt. II 381 l. 16 ff.; Mon. 8 l. 14 f.

⁸⁶ See Wenger, *P. Mon.* p. 100 ff. ad N° 8; Kreller l. c. 386; Bruck, *Totentheil z. Seelgerät* 306 with reference to Erman, *Aegypt. Religion*² 101 ff.; 130 ff.

⁸⁷ Cf. the testaments: P. Ant. I (460 A.D.) l. 26 ff.; Cair.-Masp. I 161 (570 A.D.) l. 160 ff.; Lond. I 77 = M. Chr. II 319 (end of VI cent. A.D.) l. 56 ff. and the *donatio m. c.* Mon. 8 l. 14 ff. (end of VI cent. A.D.) cf. Kreller l. c. 386.

⁸⁸ Cf. Cair.-Masp. III 312 l. 70 ff.; Cair.-Masp. III 324 l. 5 ff. cf. Lewald, *SZ.* 41, 317 Bruck l. c. 305 ff.

appear most frequently together with the former ones. Of special interest is here the injunction (which we encounter twice in the sources⁸⁹) to pay annually a certain sum to former slaves and freedmen of the testator, so that they may go to his grave and solemnly celebrate his birthday. It is easy to see here the continuation of an old Greek custom⁹⁰.

Yet, real acts implied in the modal injunctions must not always be related to religious ceremonies. There may be other of the most various kind, requesting for instance the building of a dovecot and the sharing of its costs⁹¹; the building of an oven for the emplacement of which the donee has to cede a piece of land⁹²; or the collecting of money due to the testator as prizes gained in athletic contests and handing it to his son⁹³.

B. As to those modal clauses which provide for the refraining from certain acts, we find here first of all interdictions to dispose of the objects of the grant⁹⁴. On the other hand, we have a case of quite another kind in Oxy III. 492 (130 A.D.) where there is an interdiction addressed to the heirs who are not relations of the testator and forbidding them to let their father enter the inherited house⁹⁵. It seems that such a *modus contra bonos mores* could not be enforced, and that would make it practically inefficient and of no consequence for the validity of the entire testament⁹⁶.

⁸⁹ Cf. Ryl. I 153 l. 3 ff.; Oxy. III 494 l. 22 ff.

⁹⁰ See Kreller l. c. 370 and note 26.

⁹¹ Cf. Grenf. I 21 l. 16 f.

⁹² Cf. Grent. I 21 l. 14.

⁹³ Cf. Ryl. I 153 l. 25 ff. On Lips. 28 = M. Chr. 318 l. 9—14 see Kreller l. c. 386.

⁹⁴ Cf. the Greek testaments: Oxy. III 483 l. 10 f. and Roman testaments: BGU I 326 = M. Chr. 316 l. 9; SB 7630 l. 10; PSI IX 1040 l. 30 ff.; Cair.-Masp. I 151 l. 156 ff. see Lewald, SZ 33, 627; Kreller, l. c. 386; Taubenschlag, Law I 148 n. 30. Such interdictions in the form of *modus* were well known to the ancient Greek law cf. Weiss, RE XV 2337; Kübler RE V A. 1, 980.

⁹⁵ l. 7 ff.; οὐκ ἐξόν[τος] τοῖς αὐτοῖς κληρονόμοις μου τῷ καθόλ[ου π]αραδέχ[εσθαι] εἰς τὴν δηλουμένην μου οἰκίαν τὸν τοῦ ἐτέρου αὐτῶν Θεῶν[ος] πατέρα... ἐφ' ἔλθον τὸ[ν τῆς] ζωῆς αὐ[τοῦ] χρόνον παρευρέσει ο[ὗ]δ[ε]μιᾶ κ.τ.λ.

⁹⁶ This assertion is corroborated by the fact that the *modus*, as a rule, was enforceable only exceptionally (see below, note 100). As yet the problem of the validity of such a *modus* is not solved in the literature cf. Arangio-Ruiz, *Successione* 88; Kreller l. c. 367.

Speaking of interdictions contained in *modi*, one must mention that in the papyri there are also often to be found interdictions to infringe provisions of the will, addressed to indeterminate third persons and supported by penal clauses⁹⁷; however, these are not *modi* in the strict sense because they are not addressed expressly to persons who profit by the respective act.

It remains to say a few words about the legal effects of the *modus* in the law of Greco-Roman Egypt. In the Ptolemaic epoch a *modus* seems to have created only a moral and religious duty⁹⁸ and the failing to execute it carried legal effects only inasmuch as the respective legal act was supported by penal clauses⁹⁹. In the Roman and Byzantine epochs there is no case known in which Roman citizens would exercise rights created by the imperial legislation concerning *modi*¹⁰⁰; in accordance with the spirit of the local law, penal clauses continue to protect the *modus* with the whole of the legal act¹⁰¹.

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⁹⁷ Cf. Kreller l.c. 371 ff. and the sources cited there.

⁹⁸ Similarly as in the ancient Greek law which, let us add, gradually created a system of means of security in this sphere, cf. Bruck l.c. 197 ff.

⁹⁹ Cf. Berger, *Strafklauseln* 229 ff.; Kreller l.c. 371 ff.

¹⁰⁰ In classical Roman law the *modus* was not enforceable cf. Schulz, *Class. Roman Law* 330 f.; certain emperors granted an action for fulfillment to the third person benefitting from the *modus* and at last under Justinian's law the performance of a *modus* could always be enforced cf. l.c. 489, 568.

¹⁰¹ Cf. Kreller l.c.