



Herausgegeben von:

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TYCHE

Beiträge zur Alten Geschichte
Papyrologie und Epigraphik

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GIULIO IOVINE

A Latin Private Document on Papyrus
(*ChLA* XLIV 1300 *recto*)*

Plate 13

ChLA XLIV 1300, while included in the volume of the *Chartae Latinae Antiquiores* devoted to the Latin Viennese papyri, is only described and up till now remains unpublished. According to H. Loebenstein's account, it may come from the Arsinoites or Herakleopolites¹; nothing in the text however indicates its exact provenience. The *recto* contains a portion of a full Latin document, apparently to be dated back to the 2nd century AD. This paper will provide an edition of the document, and discuss some possible identifications.

1. Private document (*ChLA* XLIV 1300 *recto*²)

P. Vindob. inv. L 74

10.4 × 11.4 cm

late II AD

Arsinoites or Herakleopolites?

Pl. 13

P. Vindob. inv. L 74 is a roughly square fragment, with a large hole in the upper part of its left portion (if one looks at the *recto*). Only the inferior margin is visible (about 2.8/3 cm). The fragment preserves on the *recto* the remnant of a fairly long Latin text, written along the fibres in old Roman cursive, 0.2/0.4 cm in width and 0.3/0.5 cm in height. The interlinear space amounts to 0.5 cm. An unpublished Greek letter, probably unconnected with the Latin text, lies on the

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¹ H. Loebenstein, *Vom „Papyrus Erzherzog Rainer“ zur Papyrussammlung der Österreichischen Nationalbibliothek. 100 Jahre Sammeln, Bewahren, Edieren*, in: *Festschrift zum 100-jährigen Bestehen der Papyrussammlung der Österreichischen Nationalbibliothek* (P. Rainer Cent.), Wien 1983, 3–39, esp. 4. See also pp. 24–25 for a complete account of the 'Lateinischer Bestand'.

² = TM 70087.

*verso*³. The script is remarkably elegant and regular, and features elements, which point to the 2nd century AD. For instance, in *P.Gen. inv. Lat. 8 + P.Grenf. II 108* (AD 167)⁴ one can find similar forms of *p*, *l*, the ligature *et*, and in particular the variation between a small, close *o* in the upper portion of the writing space, and a larger *o*, open at the top and less perfectly circular (see l. 2 *posui*, l. 8 *arbitrio*, and compare with l. 10 *Dionysiae*). Alternation between oval and forked *e* can be also spotted in *ChLA X 412* (AD 131)⁵. In *PSI IX 1026* (AD 150)⁶ one can witness a similar shape of *p*, and Greek *upsilon* rendered with a forked letter, similar to *e* but more open and upright (again, see l. 10 *Dionysiae*). The shape of *d* seems more archaic, since parallels can be found in *P.Oxy. VII 1022* (AD 103)⁷ and *PSI VI 729* (AD 77)⁸; the latter in particular may be employed as a parallel for the last *d* of l. 3 *dedf*. Letters *f* and *g* bear noteworthy resemblances with those on *BGU II 696* (AD 156)⁹ and *ChLA III 203* (AD 130)¹⁰. Notable ligatures can be seen at l. 3 (*muliebria*) and at l. 10, where one can witness an unusual way of linking *d* to *i*: that is, *superius*, instead of connecting *i* (or other letters) to the lower part of *d*¹¹. One can also see some scattered *interpuncta*: two at l. 3, separating *parathecae muliebria* from the preceding and following words, and two at l. 4 and 11, marking abbreviations: *Aug · is* for *Aug(ustas)* or *Aug(usta)*, while *per sing ·* may stand for *per sing(ulos)*. Other abbreviations, such as *iug(era)* or *-iaq(ue)*¹², are unmarked. Not only is the script finely elaborate, but also the orthography is quite correct. Greek loan words are accurately transcribed. Thus, *παραθήκη* becomes *paratheca*; whatever the word before *dua* at l. 11 (*d · hora*), that word may also be correctly transcribed, as it maintains the *h*. Personal Greek names, like *Dionysius* and *Dionysia*, keep their *upsilon* at l. 10. The presence of *arbitrio* instead of *arbitrium* is not likely to be a slip, since the alternative form *arbitrium* for *arbitrium* is in fact attested more than once in Justinian's *Digesta*, and also in *ChLA XLIV 1314 recto*, l. 16 (*legati secundum arbitriu[m]*). Its presence may reveal instead a familiarity with legal texts¹³. Finally, two letters deserve a particular remark. Firstly, at l. 9, the first *e* of *necess[is]* is peculiarly similar to a proper *epsilon*, sharing one of its characteristic sketches, i.e. two curved strokes one over the other; see for instance the *epsilon* in *P.CtYBR inv. 681*, l. 8 (AD 130)¹⁴; *SB I 4639, passim* (AD 209)¹⁵; *P.Oxy. XII 1408, passim* (AD 212–213)¹⁶; *P.Bodm. 4, passim* (2nd half of 4th century AD)¹⁷. It is worth pointing out, however, that some similar

³ Since the Greek letter is almost complete and accommodated within the margins, whereas the *recto* has lost three of its original four margins, it appears that a slice of papyrus was cut from the Latin document and then used to write the letter; therefore, that the letter is later than the Latin document on the *recto*.

⁴ = *ChLA I 12* (= XLVIII 12) + III 204 (= XLVIII 204), TM 69871 + 69872.

⁵ (= XLVIII 412), *P.Berol. inv. 7124*, TM 69914.

⁶ = *ChLA XXV 784*, TM 17460.

⁷ = *ChLA III 215* (= XLVIII 211), TM 78569.

⁸ = *ChLA XXV 782*, TM 70005.

⁹ = *ChLA X 411*, TM 69913.

¹⁰ (= XLVIII 203), *P.Lond. inv. 482*, TM 78865.

¹¹ As can be seen in *ChLA X 412* for *di* and *du* and in *PSI IX 1026* for *di*.

¹² The enclitic *-que* is not often abbreviated in Latin papyri: see *BGU VII 1696 B l. 14* (2nd AD, TM 69751); the aforementioned *ChLA X 412 col. II. 29*; *M.Chr. l. 9* (AD 170, TM 9922).

¹³ See below for a detailed discussion.

¹⁴ = *P.Sijp. 42a*, TM 110203.

¹⁵ = *P.Berol. inv. 13035*, TM 23140.

¹⁶ = TM 21817.

¹⁷ = TM 61594.

‘double-curved’ *e*’s are to be found in three Latin documents ranging from the 1st to the 2nd century AD¹⁸; according to Robert Marichal, and despite the external similarities with double-curved *epsilon*, this *e* would be peculiar to Latin, and would have nothing to do with double-curved *epsilon*, which evolved independently¹⁹. Secondly, the second *i* of *arbiterio* (l. 9) and that of *-iaq(ue)* (l. 11), both probably consonantal at this stage of Latin, differ from the other *i*’s inasmuch as they are distinctly longer; similar *i*’s can be found in *ChLA* X 417.

→ 1] . [
2]sote [. . . .]arem[. . . .]sime posui ut hab[e-
3	neg]otium · parathecae muliebria · et quas ded[
4] . . . [. . . .]d . . . t . . Aug(ust-) tria millia, quibus su[
5]s[. .]qu[. . .] . . [. .] . a parathecae ille aure[
6]quibus . . [.] . eb[a]m litteras parathe[c
7] . [.] . lis fr . [.] . qu . s partibus iug(era) f . . . [
8] eiusmet [.] . . o more arbiterio filia[
9] . . . [. .]et parentalibus et necess[
10] Dionysiae et Iul(io) Aelio Dionysio consumi uil . [
11]tiones per sing(ul-) d iaq(ue) d . . hora dua p[

Although a considerable number of words are preserved in the papyrus, the lack of complete sentences renders the syntactical structure both broken and inconsequential, therefore impairing a clear assessment of the nature of this document. No subscriptions are visible, so a double scenario is possible: either there were no subscriptions in the original drawing of the document, or they were in a different part of the document. Since the Latin text is most likely not complete at l. 11, where the lower margin is visible, it can be supposed that the text continued further²⁰.

2 This document features a first person. This is clear from *posui*, and can perhaps be strengthened by l. 6 *] . eb[a]m*. This is no decisive clue for anything, as a first-person style is predictable for imperial rescripts as well as several kinds of private documents: *cheirographa*, testaments, letters, and the like. Since a verb is very close, probably governing a subordinate clause (*ut hab[e-]*), *Jarem* is likely to be the end of a name or adjective, rather than of another verb. Perhaps the ending of an adverb (related to *posui*) is to be seen in *]sime*.

¹⁸ That is, *BGU* II 628 (1st c. AD, TM 69918), *ChLA* X 417 (= *P.Berol.* inv. 8334, TM 69919, AD 83–86), and *ChLA* III 200 (= *P.Lond.* inv. 229, TM 11654, AD 166).

¹⁹ See the full discussion in R. Marichal, *L'écriture latine et l'écriture grecque du I^{er} au VI^e siècle*, AC 19 (1950) 113–144, esp. 122.

²⁰ The same arrangement (more than one column, subscriptions at the bottom of the last one) can be witnessed in the opening of *Sempronius Priscus*' testament in the aforementioned *ChLA* X 412.

3 *Negotium* (*otium* is also possible, but appears to be far less likely) in Latin papyri from Egypt is not widespread and appears to have a rather generic meaning ('business')²¹. On the contrary, a striking instance of technical language is the word *paratheca*, i.e. παραθήκη, 'deposit' (here and at ll. 5–6): this kind of contract is widespread in all the three stages of Greek, Roman and Late Antique Egypt, and in this context, it may mean a set of items 'ἐν παραθήκῃ', i.e. money or valuable goods²². More on this crucial term below. The word *muliebria*, whose syntactical status is hard to construe²³, appears to mean something like 'womanly things'; it is one of the three distinctly feminine elements in this papyrus (see ll. 8, 10).

4 The first half of the line is particularly hard to decipher; one can be sure, however, that money is spoken of here: . . . *Aug(ust-) tria mil[li]a*. The currency is unclear: one may have either *dr(achmas) Aug(ustas)*, or, less likely, *d[enaria]* — that is, *d(enaria) Aug(usta)*²⁴. Alternatively to *dr* one may read *as*.

5 Either *Aure[lius]* or *aure[ae]* (*scil. parathecae*).

6 The third mention of *paratheca*. Both *ἰτέβ[α]μ* and *ἰρέβ[α]μ* are possible; since *litteras* are following, perhaps *μιτἰτέβ[α]μ* is likelier.

7 *Ἰέλις* is possible; then, perhaps *ἴρα[fr]u[mentaria]s*. After that, both *quas* and *quīs* are possible. As money was mentioned at l. 4, here a valuable item, *iug(era)*²⁵, appears as well. After *f* one can see weak traces of a curved letter; either *ιε[]* or *η[]* may be at the end of the line.

²¹ See *P.Mich.* VIII 471, ll. 29–30 *non magis qurauit me pro xylesphongium | sed sum negotium et circa res suas* (early 2nd c. AD, TM 27084); *ChLA* X 412, col. I, l. 26 *neque habere nullum negotium cum · filias*; *P.Oxy.* XXII 2352 l. 1 *deposuisse ciuilliter negotium ad[i]re ob hoc partes eius in hoc negotio* (4th c. AD, TM 33693); *PSI* XIII 1309, col. II, l. 7 *u(ir) c(larissimus) pr(aeses) Rufino d(ixit): confides negotio tuo? Rufinus d(ixit): πέποιθα τῶι ἐμῶι πράγματι* (1st half of 5th c. AD, TM 35065).

²² For a full account on παραθήκη, see K. Kastner, *Die zivilrechtliche Verwahrung des gräko-ägyptischen Obligationenrechts im Lichte der Papyri (παραθήκη)*, Diss. Erlangen 1962. Also available on the topic E. Kiessling, *Über den Rechtsbegriff der Paratheke*, in: *PapCongr.* VIII, Wien 1956, 69–77, and W.-D. Roth, *Untersuchungen zur Kredit- 'parathèkè' im römischen Ägypten. Ein Beitrag zum Zinsrecht der Papyri und zum 'nomos tôn parathèkôn'*, Diss. Marburg 1970.

²³ Since the *interpuncta* are not frequent in this document, one cannot understand why they have been put between *negotium* and *parathecae*, and between *muliebria* and *et quas ded[]*. If they were destined to separate a syntagm (*parathecae muliebria*) from the rest of the phrase, the syntax becomes even more complicated (there is no concordance between *parathecae* and *muliebria*). The safest construction might consist in connecting *negotium* to *parathecae* ('the transaction of the deposit?') and *muliebria* to *et quas ded[]* as part of the same set: 'womanly things' and things 'that' (*quas*) somebody 'gave' (*ded[]*), the relative pronoun anticipating those things which would be located in the following lacuna. *Parathecae* might also be a dative: *parathecae muliebria*, 'the womanly things [given] in deposit [lit. to the deposit]', but this seems even more syntactically awkward.

²⁴ See *ChLA* XLV 1340, l. 4 *dr(achmas) · Aug(ustas) · et · Pt(olemaicas) · ducentas* (AD 27, TM 16273); *P.Aberd.* 61, ll. 5–6 *[dr(achmas) Au]g(ustas) et Ptol(emaicas) ducentas | quad[rage]nta* (AD 48–49, TM 20224); *Chr. Mitt.* 362 ll. 9–10 *dr(achmas) Aug(ustas) dua millia ducentas* (AD 221, TM 23523), etc. For *d(enaria)*, see *BGU* VII 1695, fr. B2, l. 3 *d(enaria) Aug(usta) ducenta* (AD 157, TM 69750).

²⁵ *Iugera* were apparently used by Roman citizens in Egypt as a measure unit. See *ChLA* X 412, ll. 1, 3; *P.Ryl.* IV 612 + *P.Mich.* VII 434, *scriptura interior*, ll. 4, 12 (2nd half of 2nd c. AD, TM 27148); *P.Mich.* VII 453, l. 4 (2nd half of 2nd c. AD, TM 42958); *P.Diog.* 10 l. 6 (AD 211, TM 10689).

8 Before *o more*, *p* or *t*. The second feminine element in the papyrus: *arbiterio filia[e]* or *filiq[rum]*. The term preceding them, *arbitrium*, ‘decision’, ‘choice’ is a technical term appearing in a Latin testament²⁶ and whose particular form with an additional syllable (*arbitrium* instead of *arbitrium*) seems to be attested in Latin only in Justinian’s *Digesta* — mainly from 2nd century AD authors²⁷ — and in the aforementioned *ChLA* XLIV 1314 *recto*, l. 6 *legati secundum arbitriu[m]*, which can also be dated to the 2nd century AD. The form *arbitrium* must therefore have been widespread in juridical texts from 2nd century AD onwards, and it may reveal some familiarity of the scribe with legal jargon. In addition, one might see in l. 8 *more arbiterio* some sort of asyndetic sequence (‘according to the custom and the choice of ...?’) which would have a distinct legal — or anyway official — sound²⁸.

9 One probably finds in *parentalibus* the *Parentalia*, a traditional Roman festival held in February to celebrate the dead parents and relatives²⁹. No attestation of this particular festival comes from either Greek or Latin papyri; it is clear, however, from epigraphical and literary sources that Roman citizens celebrated this particular festival not only in Italy, but also in Gallia, North Africa and most probably Thracia, so that an attestation of this festival among Roman citizens in Egypt (whether or not of Italian origin and/or Latin native speakers) cannot be ruled out³⁰.

10 Two personal names appear in the papyrus: *Dionysia* and *Iulius Aelius Dionysius*. There is no way to know whether the former name is incomplete or not: a woman might have had two names or, if a slave or a freedwoman, one only. The name Διονυσία is anyway common in Greek, and attested in 2nd century AD Arsinoites³¹; the lady might or might not have been a Roman citizen. On the other hand, the masculine name is preserved in its entirety and discloses the presence of a previously unattested Roman citizen. Both names seem linked together as an asyndetic couple, and may therefore be inflected in the dative case (‘to Dionysia and Iulius Aelius Dionysius’, perhaps an ethic dative?), although a genitive followed by an ablative is not to be

²⁶ See *P.Mich.* VII 439, ll. 11–12 *corporis mei curam arbi[trio Theodoraē (?)] | [filiae] meae committo* (AD 147, TM 69899).

²⁷ *Iust. Dig.* II 8,9 *si in alterutram partem iniquum arbitrium uideatur* (from Gaius); IV 8,7,1 *quamuis serui, inquit, arbitrium nullum sit* (from Ulpianus/Iulianus); IV 8,16 *et si qua alia incommoditas ei post arbitrium susceptum incidat* (from Paulus); IV 8,19,1 *sed si de pluribus rebus sit arbitrium receptum* (from Paulus); IV 8,21,9 *si arbiter recipere in se arbitrium fuerit paratus* (from Ulpianus).

²⁸ This, of course, would be unacceptable if *more* had to be connected with *o* and *arbiterio filia[e]* were an independent section. The fragmentary status of the text does not allow us to proceed further.

²⁹ The *dies parentales* began on February 13th and ended nine days later, on February 23rd. It was mainly a private and family ceremony, lacking the public character of other overlapping festivals, like the *Lupercalia*; the dead to be honoured, who could be parents as well as grandparents, siblings, children, and any sort of in-law, were offered several kinds of sacrifices. The main literary sources are Ovid (*Fast.* II 530–570) and Ausonius (*Parentalia*). A full account of this festival and of its importance throughout all stages of Roman history is in F. Dolansky, *Honouring the Family Dead on the Parentalia: Ceremony, Spectacle, and Memory*, Phoenix 65 (2011) 125–157.

³⁰ Among the places where *Parentalia* were most likely celebrated, Dolansky, *Honouring* (n. 32) 148–149 includes Italy, Mediterranean (and later, Northern) Gaul, Sardinia, *Africa Proconsularis*, and *Philippi* in Thracia. The last location is remarkable as it is up to now the only Eastern province where one can be certain the *Parentalia* were celebrated. The source is a Greek inscription (*SEG* II 415, 1–3 μετά τήν] | τελευτήν μου παρακάθωσίν | μοι παρεναλιότις).

³¹ See *Chr. Wilck.* 61 (AD 73, TM 14986); *P. Vind. Tand.* 14 *recto*, l. 73 (= *P. Vindob.* inv. G 36996, 1st–2nd c. AD, TM 24925); *BGU* II 619, l. 13 (AD 155, TM 9267).

ruled out. This Dionysia is the third feminine element appearing on this papyrus. As to the use of *consumere*, also appearing on a Latin testament on papyrus³², it may have been motivated by its technical nature. After this verb, one might expect the presence of a figure, be it either V or VI.

11 The figure *dua* suggests again a valuable item. For an overall (and tentative) interpretation of this line, see the *Appendix*.

In the absence of some unmistakable formula, which would lead us to determine the nature of *ChLA XLIV 1300 recto*, one must resort to conjectures.

2. A contract of παραθήκη?

The main topic of the document appears to be money/valuable items, and in particular a *negotium parathecae* of some sort. It may be understood that an actual παραθήκη is being legally established in the document. Given the general accuracy of transliterations in this document, either the scribe who drew it up was fairly educated (and mastered both Greek and Latin) or, if the scribe was only copying a sample act for an impending necessity, the act itself had been accurately and carefully worded. Therefore, *paratheca* is here with purpose; i.e., it is not meant as a simple variant of *depositum*.

Latin *depositum* is by its very nature free of charge; it implies the return of the goods *in specie* (that is, what has been given must be returned unaltered), otherwise it becomes *depositum irregulare*, and the recipient of the goods can return something *tantundem eiusdem generis*³³. Greek παραθήκη is somehow different, since it implies a fee for the custody of the goods³⁴; it was probably felt as something similar to the *depositum*, since a number of peculiar παραθήκαι, called *quasi-παραθήκαι*, are allegedly a Greek version of the *depositum irregulare*; moreover — according to Kastner — some formulas and details from both παραθήκη and *quasi-παραθήκη* are due to a direct influence from Roman law³⁵. However, since *paratheca* appears here instead of *depositum*, one may give the presence of a fee as a possible reason to explain the use of the former over the latter. Besides, as far as Roman Egypt is concerned, *depositum* is almost always found in the army, representing sums of money withheld from the *stipendium* of the soldiers; there is a clear-cut separation between παραθήκαι made my soldiers for private or business

³² The aforementioned *BGU VII 1695*, fr. B2, ll. 2–3 *sepeliri me uolo et in corpus meum | consumi d(enaria) Aug(usta) ducenta*.

³³ See M. Talamanca, *Istituzioni di diritto romano*, Milano 1990, 549–552; A. Guarino, *Diritto privato romano*, Napoli 2001, 869–874; M. Talamanca, *Elementi di diritto privato romano*, Milano 2013, 281–283.

³⁴ Kastner, *Verwahrung* (n. 22) 28–31.

³⁵ Kastner, *Verwahrung* (n. 22) 57–60; 67.

purposes³⁶, and their *deposita*/δηπόματα, specifically linked to their salary³⁷. As for the use of Latin, the person speaking in *ChLA* XLIV 1300 *recto* might have needed to have his/her contract drawn up in Latin, either because he/she had to do so (probably being a Roman citizen)³⁸, or because he/she felt a specific (for us, unfathomable) urge in this respect.

To sum up, if *ChLA* XLIV 1300 *recto* can be understood as private document concerning business, perhaps a contract of παραθήκη, then the person speaking can be seen as entrusting (l. 2 *posui* appears to be a significant part of the contract) several amounts of valuable goods, perhaps through official documents (l. 6 *mit]teb[a]m litteras?*), to the custody of somebody else. These goods may also include *muliebria*, ‘womanly things’ — clothes, jewellery, cosmetics or the like — as well as portions of land, given the noteworthy closeness between *partibus* and *iug(era)* at l. 7; not only actual money is spoken of at l. 4, but at l. 5 one may supply *aure[ae]* or the like, since goods ἐν παραθήκη could also consist in silver and/or gold³⁹. That a whole family, or part of it, is involved in the transaction, may be inferred by the presence of a *filia* (or more) at l. 8. The couple referred to at l. 10, which may be the objects of the verb *consumi*, must have been linked in some way both to each other and to the person speaking, but nothing in the text suggests how.

A final remark on this scenario. If *ChLA* XLIV 1300 *recto* is actually a business document, its original context is very likely to be the Roman army. This would provide an explanation for an Egyptian document in full Latin, mentioning Roman citizens but apparently *not* concerning inheritance or family (testaments, *professiones* etc.). Only in such a context a business document might have been drawn up in Latin⁴⁰; in civil contexts, Roman citizens from Egypt usually had their negotiation documents written in Greek, in agreement with local laws and procedures⁴¹.

³⁶ One finds, for instance, that in *PSI* XVI 1646 (3rd c. AD, TM 316284) a παραθήκη of a legionary (therefore, a Roman citizen) is mentioned. Other documents where a Roman citizen seems involved in a παραθήκη are *O.Did.* 134 (AD 100–110, TM 144700), *BGU* II 378 (AD 147, TM 9141), *P.Aberdeen* 180 descr. (early 4th c. AD, TM 33294), *P.Lond.* II, 318–319 (= *P.Lond.* inv. 153, 4th c. AD, TM 33203).

³⁷ See for instance *P.Fay.* 105 (= *P.Lond.* inv. 1196, AD 175, TM 10770); *P.Hamb.* inv. Gr. 310 (*ChLA* XI 495, AD 193–211, TM 69982); *P.Berol.* inv. 14100 *recto* (*ChLA* X 446, 3rd c. AD, TM 69944). See also *P.Col.* VIII 221 (AD 143, TM 17631) and *P.Mich.* VIII 514 (3rd c. AD, TM 30514), where the mentioned δηπόματα always concern soldiers.

³⁸ Before the *Constitutio Antoniniana*, Roman citizens apparently needed many of their private documents to be written in Latin: testaments (this at least until Severus Alexander: see M. Amelotti, *Il testamento romano*, Firenze 1966, 111–117), *professiones* (see *BGU* VII 1691, AD 109, TM 69746), *testationes* (see *P.Mich.* VII 436, AD 138, TM 78521), and even loan contracts (or *cheirographa*): see *P.Fouad* I 45 (AD 153, TM 20991).

³⁹ Kastner, *Verwahrung* (n. 22) 21–22.

⁴⁰ See some Greek *cheirographa* in Latin language: *ChLA* XLV 1340 (AD 27, TM 16273), *P.Mich.* VII 438 (AD 140, TM 69901), *P.Fouad* I 45 (AD 153), *P.Mich.* VII 435+440 (AD 162, TM 69887).

⁴¹ See for instance *P.Mich.* IX 554 (AD 93, TM 12047), *PSI* VII 738 (AD 100, TM 13789), *BGU* I 300 (AD 148, TM 9043), etc.

3. Dotal settlements?

A second possible scenario also involves a *παραθήκη*, but in this case a fake one. It is now widely acknowledged that many *παραθήκαι* attested in Roman Egypt between women and Roman soldiers, are in fact *προίκες*, i.e. contracts of dowry. Soldiers who were forbidden by law to enter the matrimonial state and their partners allegedly employed contracts of deposit to provide the dowry they had agreed upon⁴². Pfeifer has rightly stressed the similarity in Roman law between *depositum* and *dos*: the receiver gets some money which he cannot dispose of forever, but only until the giver wants them back (if a *depositum*) or the marriage dissolves for death or divorce (for a *dos*); the depositor as well as the ex-wife, or widow, normally have a very keen interest in getting their money back and will resort to legal actions if something goes awry⁴³.

There are, in fact, striking linguistic similarities between items quoted in *ChLA* XLIV 1300 *recto* and items typically found not only in dowry contracts disguised as *παραθήκαι*, but also in real marriage settlements. In *BGU* III 729⁴⁴, for instance, items given in deposit (i.e. dowry) include at l. 11 ἰμάτια γυν[αι]κεῖα συντεταμημένα ἀργυρίου δραχμῶν τριακοσίων (cf. in our papyrus *muliebria, et quas ded[i] ... dr(achmas) Aug(ustas) tria millia* ?). The adjective *γυναικεῖα*, perhaps echoed by *muliebria* in our papyrus, is often attached to a number of objects, explicitly meant for the future wife's everyday life, and generally designed as *πάρὰφερνα* in Roman Egypt dowry contracts: that is, not dowry money strictly speaking (*φερνή/προιξ*), but valuable items given to the woman and of which the future husband would not have been directly responsible in case of damage or attrition (ἐκ τῆς τρίψεως). Moreover, in addition to these *πάρὰφερνα*, Egyptian marriage settlements from early Empire also envisage *πρόσφορα*, i.e. portions of land or slaves, as items directly granted to the future wife and on which the husband could claim usufruct, not property: hence, perhaps, the *iugera*

⁴² A quick survey in O. Montevecchi, *La papirologia*, Milano 1998, 229–230. It is worth quoting one of the most relevant papyri in this respect, *BGU* I 114 col. I ll. 9–13 νοοῦμεν ὅτι αἱ παρακαταθήκαι προίκες εἰσιν. ἐκ τῶν τοιούτων αἰτιῶν | κριτὴν οὐ δίδωμι. οὐ γὰρ ἕξεστιν στρατιώτην | γαμεῖν. εἰ δὲ προίκα ἀπαιτεῖς, κριτὴν διδοῦ[ς] | δόξω πεπεῖσθαι νόμιμον εἶναι τὸν γάμον (AD 142, TM 9923). Latin marriage/divorce arrangements where dowry is mentioned are extant (*P.Mich.* VII 442, 2nd c. AD, TM 78524; *PSI* VI 730, 2nd c. AD, TM 70006), but they do not involve any sort of deposit.

⁴³ G. Pfeifer, *Das depositum als funktionale Mitgift in D. 16, 3, 27 (Paul. 7 resp.)*, ZRGRA 123 (2006) 309–314; he particularly states “dass die Verwahrung besonders gut geeignet ist, die Funktion einer Mitgift dort zu erfüllen, wo diese nicht wirksam bestellt werden kann” (p. 311). The passage discussed by Pfeifer is somehow similar to *BGU* I 114, even if it does not concern soldiers: *Dig. XVI 3,27 (Paul. 7 resp.) Lucius Titius cum haberet filiam in potestate Seiam, Pamphilo seruo alieno in matrimonium collocauit, cui etiam dotem dedit, quam sub titulo depositi in cautionem contulit, et postea nulla denuntiatione a domino facta pater decessit, mox et Pamphilus seruus: quaero, qua actione Seia pecuniam petere possit, cum ipsa patri heres extiterit. Paulus respondit, quoniam dos constitui non potuit, ex causa depositi actione de peculio pecuniam repetendam.*

⁴⁴ AD 144, TM 20054.

at l. 7⁴⁵. One might be tempted to construe ll. 2–4 of *ChLA XLIV 1300 recto* as something like *dotem* (?) ... *posui, ut habe[atur] ... secundum negotium parathecae, muliebria et quas ded[i] ...* (a short list of other *παράφερνα* would have followed, and then their financial value) ... *dr(achmas) Aug(ustas) tria millia, quibus* etc.

One wonders why choosing Latin (and a very carefully written one) for drawing up a contract which would have been illegal according to Roman law. If by using Latin instead of Greek the contractors thought they might have some kind of advantage, one cannot see how, since any Roman authority, when presented the case, would have considered the marriage as null and void. Pfeifer⁴⁶, moreover, has pointed out the existence of ‘false’ *παράθηκαι*, agreed upon between a soldier and his prospective bride, where the intention of providing a dowry under the cover of a deposit is openly stated in the document⁴⁷; the Roman government, he argues, would have put up with those instances of ‘unofficial’ agreements in Greek language, as long as the contractors kept the business to themselves, without resorting to Roman justice. One might be tempted to explain the choice of Latin by arguing that *ChLA XLIV 1300 recto* is not the settlement of a dowry under the pretence of a *παράθηκη*, but the portion of a genuine and legal marriage contract between two Roman citizens in Egypt; *ChLA XLIV 1300 recto* would preserve the portion concerning dowry. If this is true, the dowry mentioned in this document would be exceedingly long if compared with the two other dowries featured in Latin papyri⁴⁸, it must be noted, however, that one cannot ascertain the real length of the dowry-related sections in the aforementioned papyri, and the list might have been much longer and more detailed. The *paratheca* repeatedly quoted in *ChLA XLIV 1300 recto* would be in this case nothing but one among the valuable items provided to the bride as a dowry; an amount of money in deposit of somebody else, and now at the bride’s (if included in the *παράφερνα/πρόσφορα*) or the groom’s disposal (if *φερνή*).

⁴⁵ A full survey of marriage settlements in Ptolemaic and Roman Egypt is in U. Yiftach-Firanko, *Marriage and Marital Arrangements. A History of the Greek Marriage Document in Egypt. 4th century BCE–4th century CE*, München 2003; new laws and customs concerning the dotal system, including the arrangements of *παράφερνα* and *πρόσφορα*, in Roman Egypt are discussed at pp. 129–184.

⁴⁶ G. Pfeifer, *IV. Paratheke als Umgehungsgeschäft zur Mitgiftbestellung im Rahmen verbotener Soldatenehen in der römischen Prinzipatszeit*, in: Id., *Fortschritt auf Umwegen: Umgehung und Fiktion in Rechtsurkunden des Altertums*, München 2013, 112–122.

⁴⁷ The instance quoted by Pfeifer is *P.Lond.* II 178, where Περωνία Καρατιάς, through her guardian Πετρόνιος Μάρκελλος, acknowledges that she received from a Roman soldier, Ἰούλιος Ἀπολινάριος from the *cohors I Apamenorum*, an amount of money ‘from those I brought to you as dowry’, ἀφ’ ὧν προσ[ή]νεγκά σοι ἐν προίκι (AD 145, TM 19961).

⁴⁸ See *P.Mich.* VII 442, where the dowry is discussed from ll. 5 onwards (*in ornamentis aureis po[n](do) ...* | *catellam tet(artarum) · X s(emis) · inaures [...]* | *anulum · tet(artarum) · II · cottatia · [...]* | *pon(do) · unciae tres [...]* | *paenulam coccinam [...]* | *rerum · trium pal[...]* | *CCXX, item in aera[mentis] ...* | *-mnae — III — et sart[aginem] ...* | *XXII · labellum · po[n](do) ...* | *XXX, scaphiu pon(do) []*); and *PSI VI 730*, ll. 7–10 *dotis · suae | nomine dixit deditque in aestimio uestis et in numerato praesens | ... [.] [.] ... quā dotem dixit se in Valerij[us] Gel[mellus] ...*

4. A testament?

A third possible interpretation of *ChLA* XLIV 1300 *recto* lies as well in the frequent mentions of money and goods, and of a familiar context. One might see in this document a fragment of that particular section of Roman testament, which concerns legatees and legatees; the testator settles the amount of money he will bequeath to other heirs after his main one, and the chores, which he dictates for these legatees to employ his money in.

Legatees in Roman testament are usually the most varying parts of the document, the most abundant and the less linked to fixed formulas (except for the unavoidable *do lego* ~ ἰδῶμι καταλείπω, which does not appear here)⁴⁹. Testaments collected in the third volume of the *Fontes Iuris Romani Antejustiniani*⁵⁰ offer a wide range of possible *legata*. *Publius Dasumius Tuscus* employs a large section of his testament on stone⁵¹ to bestow money and several items to a large number of people (ll. 15–68); he also provides for his future memory by dictating the preparation of a *praedium* (ll. 87–94). The Gallo-Roman responsible for *FIRA* III 49 meticulously describes a building he wants to be erected by his legatees after his death, and designates several heirs to take care of it; ll. 11–12 (*arbitratu Philadelphi et Veri liber|torum meorum*) happen to be quite similar to *arbiterio filia*[at l. 9 of our document. *Gaius Longinus Castor* liberally bestows money and land on his heirs in his ‘Ρωμαικῆ διαθήκῃ⁵². Some parallels might also be found between this document and other testaments: *Lucius Ignatius Rufinus* left to his wife some *iugera* in the already mentioned *P.Diog.* 10, l. 5–7⁵³, as the testator of *ChLA* 1300 may be doing at l. 7 *iug(era)*; in addition to that, a passage in the testament of a Tarracinian woman⁵⁴ and a formula in *P.Hamb.* 1 72, ll. 1–4⁵⁵ may lead to construe the first part of l. 11 as *eroga]tiones per sing(ulos) d(ies)/di e s* ‘payments day by day’. In this respect, the word *parentalibus* at l. 9 would fit very well with the context, inasmuch as many testaments on stone from the Western portion of the Empire, and apparently one from the East, allegedly mention the *Parentalia*; in these sections of their

⁴⁹ “Senza dare particolare rilevanza al sesso, i Romani istituiscono eredi possibilmente i figli o almeno i parenti più stretti, ma amano distribuire i legati in una cerchia assai ampia di persone, il che giustifica il continuo ricorso al testamento anche quando il suo risultato, rispetto alla *heredis institutio*, coincide con la successione intestata. Molti di numero, tali legati sono alle volte poco più che simbolici per la ristrettezza del patrimonio” (Amelotti, *Testamento* [n. 38] 120–121); then, speaking of legates, “[...] si tratta delle disposizioni che più facilmente risentono degli individuali intenti e desideri dei testatori, e per le quali, di conseguenza, meno serve la predisposizione di formulari” (Id., 160).

⁵⁰ *Fontes Iuris Romani Antejustiniani in usum scholarum ediderunt S. Riccobono, J. Baviera, C. Ferrini, J. Furlani, V. Arangio-Ruiz juris antecessores. III. Negotia*, Firenze 1972. (*FIRA*).

⁵¹ *FIRA* III 48.

⁵² *BGU* I 326 = *FIRA* III 51 (TM 9056).

⁵³ *D(o) l(ego) Lucretia<e> Octavia<e> [c]oniugae meae, qui multum laborauerit in infirmitatem meam, iug(era) | fr(umentaria) V semis in loco Potamoni, etc.*

⁵⁴ *FIRA* III 55 d, l. 4 in *mens(es) sing(ulos) (denarii) IIII*.

⁵⁵ *Mortis · meae · natus · nataue · erit · mihi heres[...] | esto · suntoue · quod · si unus unaue ex his · quicunque[...] | natus · nataue · erit · eruntue · moriatur · erogat[io ...] | hereditatis · [p]ro portione maior · esto* (TM 28696).

testaments, the testators demand from their heirs and heiresses to be honoured after death through the said ceremonies⁵⁶. If *ChLA XLIV 1300 recto* preserves part of the legates of a testament, l. 8 might state for *Dionysia* and *Iulius Aelius Dionysius* — either children of the testator, or one child and his/her spouse — the duty of honouring him μετὰ τὴν τελευτήν during the *Parentalia*.

A main weakness in this scenario is the presence of a παραθήκη. In order to solve the problem, one might consider that in the average contract of παραθήκη, the duration of the deposit depends entirely on who entrusts the money⁵⁷. If *ChLA XLIV 1300 recto* is in fact a testament, and its testator still had sums of money ἐν παραθήκῃ while he was having his testament drawn up, he might have disposed of these παραθήκαι by bestowing to his heirs the right of claiming them back — and in the same predicament they were in at that moment — instead of doing so himself. A remark may be done about some Roman loan receipts roughly contemporary to this document, where the debtor declares he will give the money back whenever the creditor wants it⁵⁸; and, if he will not be available, to his representative or to his heirs⁵⁹. At least in such cases as, for

⁵⁶ Although Ovid clearly stated that very little would suffice to honour the dead *parentes* (*Fast.* II 535–541 *tegula porrectis satis est uelata coronis | et sparsae fruges parcaque mica salis | inque merō mollita Ceres uiolaeque solutae; | haec habeat mediā testa relicta uiā. | Nec maiora ueto, sed et his placabilis umbra est: | adde preces positis et sua uerba focis*), testaments on stone do mention large amounts of money destined to posthumous honours. A great deal of such documents is included and discussed in Dolansky, *Honouring* (n. 30) (*CIL V 2072; 4410; 4489; AE 1940, 94; ILS 6468*, etc): one may particularly recall the 800 sesterces left by *Veturius Nepos* for sacrifices on the *Parentalia* and adornment of his tomb with roses — *CIL V 2072*, ll. 4–7 *item Herc(u)l(anensibus) | (sestertios) n̄(ummos) CCCC, mulieribus (sestertios) n̄(ummos) CCCC, | ut facerent [...] Her(culanenses) Par(entalia), mul(ieres) rosas* — and the sacrificial victims (*hostiae*) explicitly requested by *Manius Megonius* for the same festival, for which he bestows 50 *denarii* (*ILS 6468 = AE 1894, 148*, ll. 22–24 *item in cena parentalicia (denarios) L et hoc | amplius sumptum hostiae prout locatio publica fuerit dari uolo | a uobis*).

⁵⁷ “Der Hinterleger einer Sache hat natürlich Interesse daran, jederzeit über sein Eigentum verfügen zu können; dazu ist es aber erforderlich, daß er sich, falls notwendig, ohne weiteres wieder in den Besitz des Verwahrgutes setzen kann, daß also er allein die Dauer des Verwahrungsverhältnisses bestimmt” (Kastner, *Verwahrung* [n. 22] 27). A clear clue to this feature of the contract is the consistency and frequency of the formula ἐὰν αἰρήῃ, or related formulas (*Id.*, 66–68).

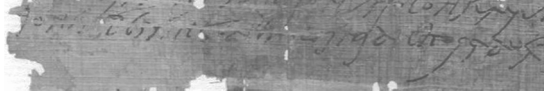
⁵⁸ Some instances are from Dacian documents, namely *FIRA III 122 (= IDR I 35)*, *scriptura inferior*, ll. 1–2 (*denarios) LX q(ua) d(ie) p(etierit) p(robos) r(ecte) d(ari) f(ide) r(ogavit) | Iulius Alexander*; and 123 (= *IDR I 33*), *scriptura inferior*, ll. 3–4 *d(ari) f(ide) sua promisit | Iulius Alexander quos eae reddere debebit qua die petierit cum usuris s(upra) s(criptis)*. Kastner argues that peculiarities of Greek-Egyptian παραθήκη such as the right of the giver to have his money back at once if he asks it, are due to the influence of Roman law: “... anzunehmen ist, daß diese Entwicklung durch den wachsenden Einfluß des römischen Rechts beschleunigt wurde; denn das römische Recht kannte die Form eines Darlehens, das jederzeit zurückgefordert werden konnte (“qua die petierit”)” (Kastner, *Verwahrung* [n. 22] 67).

⁵⁹ See the aforementioned *P.Mich. VII 438* ll. 5–6 *quos tib[i re]ddam stipendiō ac[c]ept[o] ... aut procuratori herediue [tuo (AD 140) and P.Fouad I 45, ll. 7–9 cum usuris legitimis [tibi aut p]rocuratori herediue tuo aut ad quem [ea res] pertinebit sine controuersia et [spe fut]uræ di[la]tionis (AD 153).*

instance, the death of the depositor, his heirs might have needed an official act (such as a testament) to successfully argue their right to collect the money from his depositary⁶⁰.

Appendix

Whatever the nature of this document, its last line (l. 11 *Jtiones per sing(ul-) d. iaq(ue) d. . hora dua*) is particularly puzzling and requires a separate remark. After *sing· d*, the darkening of the sheet and the waning of the ink allow only guesses.



After *per sing·*, one clearly sees a *d*, and then an oblique stroke pointing upwards, almost an upright. It may be an abbreviating stroke (but there is no parallel instance in this document) or an *i*. Then, faint traces of a forked *e*, in ligature with perhaps an *s*, less likely a very narrow *g*. In short, *per sing(ulos) diēs* seems highly likely. Further parallels can be found in *ChLA* XLV 1340⁶¹, l. 7 *in menses · singulos* ‘month by month’ and *T.Vindol.* II 205⁶², l. 1 *in singulos dies* ‘day by day’.

What follows consists in dot-like traces of one letter (or two?), perhaps the lower portion of two oblique strokes, one pointing upwards and the other downwards: the bottom of *a* or *r* is a possible solution, but no safe decision can be made here. Before *iaq*, which is quite certain, one sees perhaps *pr*, or (but less likely) *cr*, *pt*. Finally, the sequence *d. . hora* leads to two possible solutions⁶³.

(a) If the first letter were an *e*, which has lost its upper portion due to waning ink, and the second letter were in fact a shorter *c*, different from tall *c*’s within the manuscript but in fact not so strange for a 2nd century AD Latin papyrus⁶⁴, then one might think of *dē çhora*.

(b) If, again, the first letter were an *i*, one might also understand the other letter as a *p*. Within this document, *p* can be either very large and without any visible ligature to the following letter (*paratheca*, ll. 3, 6; *parentalibus*, l. 7) or smaller (l. 11 *p. iaq?*) and with a ligature in its upper portion: see *parathecae* (l. 5), *partibus* (l. 7). The latter seems to agree with the consonant in the *d. . hora* sequence, which might as well be read *diphora*:

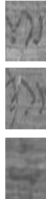
⁶⁰ It may be pointed out — although *deposita* and not *παροθήκαι* are concerned — that the aforementioned *P.Mich.* VIII 514 shows the difficulty for a mother to be given the money her deceased son — a soldier — had left as *depositum*. Hereditary issues on money left in deposit might have been an actual occurrence.

⁶¹ = *P.Vindob.* inv. L 135 (AD 27, TM 16273).

⁶² AD 104–120.

⁶³ A third one consists of reading *diphora*; but since *dithoron*/δίθορον does not exist either in Latin or Greek, this option must be discarded.

⁶⁴ See for instance similar *c*’s in *P.Oxy.* VII 1022, where they apparently coexist with more ‘open’ and larger *c*’s.

'Large' *p*'Small' *p**diphora* ?

Case (b) is noteworthy, as it produces the apparently odd sequence *-iaq(ue) diphora dua*, ‘and two ... *diphora*’. This word, which seems to govern the adjective *dua*, is unattested in Latin, but might be referred to a Greek original δίφορα, and therefore a neuter noun τὸ δίφορον. Such a noun is not attested in classical Greek: instead, one finds the rare adjective δίφορος, -ον ‘bearing fruit twice a year’⁶⁵. This adjective appears in only one Greek papyrus, *P.Cair.Zen.* I 59033 (BC 257, TM 693), a letter at the end of which the sender gives a list of fruits: ll. 12–13 κύκινα Χῖα, ἐρρινεά, Λύδια, πραέα, φοινίκεα, ὀλονθοφόρα· ῥόας ἀπυρήνου· μῆλα ἐαρινά, καὶ τῶν διφόρων. Edgar seems to think that διφόρων is linked to an implicit μῆλων: “μῆλα ἐαρινά: probably apricots, like the Latin *mala praecocia*, while τῶν διφόρων are equivalent to the *malus bifera*”⁶⁶, which bears fruits biannually. The scanty data on δίφορα/*diphora* prevent from further interpreting the sequence, which is, at any rate, palaeographically convincing⁶⁷.

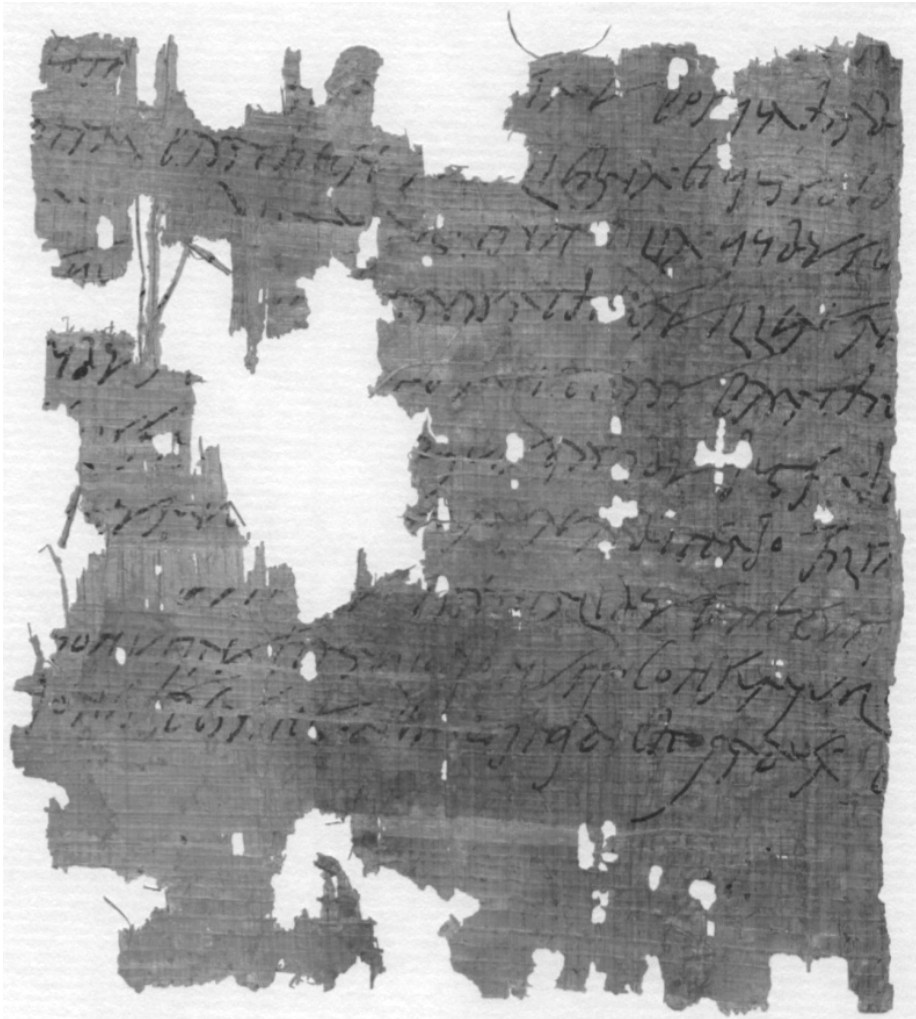
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⁶⁵ See LSJ⁹ (438) s.v. δίφορος.

⁶⁶ C. C. Edgar, *Zenon Papyrus, Catalogue général des antiquités égyptiennes du Musée du Caire I*, Cairo 1925–1926, 55 (*ad loc.* *P.Cair.Zen.* I 59033, ll. 12–13).

⁶⁷ A further development, though entirely conjectural, may consist in considering that, even if a noun such as τὸ δίφορον is not attested, it can be nevertheless formed through the neuter of the adjective, as customary in Greek. A neuter τὸ δίφορον from δίφορος would probably mean a tree or a plant of some sort, which bears fruits twice a year. The *-iaq(ue) diphora dua* would be therefore a particular kind of tree, which the person speaking might like to dispose of, either by depositing it, or by bequeathing it to a legatee. Trees were valuable elements of any Egyptian region and they could be lent or sold by themselves. For instance, *SB XVIII 13582* (= *P.Sorb.* inv. 2370, AD 127–128, TM 18239) focuses on lending a quantity of trees; *P.Kramer 8* (= *P.Mich.* inv. 1711, 2nd half of 2nd c. AD, TM 118640) is a register of trees; see also *O.Strasb.* I 772 (2nd–1st c. BC, TM 44031), where trees are considered part of the value of a property and their fruits are used as trade stock (ll. 13–15 τὸν ἐξ αὐτῶν καρπὸν συγχωρῶ ὑμεῖν | πωλεῖν). Trees are object of a purchase in *P.Oxy.* VI 909 (AD 225, TM 20372) and *P.Grenf.* II 16 (= *P.Lond.* inv. 654, 136 BC, TM 59). Other instances and a full discussion on the topic in A. A. H. El-Mosallamy, *Trees in Graeco-Roman Egypt*, in: *PapCongr. XIX*, Cairo 1992, 513–541; particularly 529–533. The enclitic *-q(ue)* would, to conclude, connect two particular set of objects: so, *exempli gratia: eroga]tiones per sing(ulos) diēs. . . iaq(ue) diphora dua*, ‘distributions day by day, and two ... *diphora*’. One might understand such a sentence, as representing one of the many deposits, or legates, the person speaking is giving to somebody (a particular set of people who would have received a sum of money on a daily basis *and* two trees?); the context, however, remains too unclear to attempt a full explanation of this syntagm.



zu G. Iovine, *Private Document* S. 59
P.Vindob. L 74 recto
(Österreichische Nationalbibliothek, Papyrussammlung)