GREEK HOROI AND A NEW ATTIC MORTGAGE INSCRIPTION

The usual epigraphic form in which Greek mortgages have been found is that of small markers known as *horoi* [1] which were set up on mortgaged lands and houses as public records. The one important exception is the doubly unique temple mortgage in the form of a sale subject to redemption, of which a long first specimen (πρᾶσις ἐπὶ λύσει) was found by us in 1910 at Sardis, and which Buckler-Robinson published in *A.J.A.*, XVI, 1912, pp. 11-82 and in *Sardis*, VII, 1, pp. 1-7 (dating about 200 B.C.). Two more specimens have come to light since 1910; one in Mesopotamia (195 B.C.) ; [2] the other (first century B.C.) in Sicily. [3] These are real deeds, *syngraphai* or *synthekai*, as distinct from mere *horoi*, which sometimes mention such original mortgages (συγγραφή, συνθήκη or διαθήκη) [4] as deposited for safekeeping with a third person or banker or in some temple. It is peculiar that no *syngraphe* of a sale subject to redemption has survived in literature or even in papyri, perhaps because in Greco-

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[1] On the various meanings of *horos* cf. Wade-Gery, *Mélanges Gustave Glotz*, 1932, pp. 877-887 and references cited in the following notes. Cf. for *horoi* Bleckmann, *Griechische Inschriften zur Griechischen Staatenkunde*, 1913, p. 1 (with references) ; Dorothy Hill, *A.J.A.*, XXXVI, 1932, pp. 254-259 ; *Hesperia*, III, 1934, p. 65 ; VIII, 1939, pp. 48, 77-79, 205-206 ; IX, 1940, pp. 266-267 ; X, 1941, pp. 52-53 ; *I.G.*, XII, 7, 56, in archonship of Kritoboulos, συνθήκας ; *ibid.*, 57 (διαθήκας deposited with archon Eunomides) ; these last two not mentioned in *Hesperia*, XII, 1943, pp. 160-165. In *I.G.*, II², 2726 there is no reference to *B.S.A.*, XI, 1904-1905, p. 71 where Tillyard republishes the inscription without knowledge of its previous edition by Ziebarth in *Sitzungsber. Ak. Berlin*, 1897, p. 665. Tillyard gives (p. 65, note 10) a wrong reference, showing his unfamiliarity with Ziebarth ; he wrongly reads παρὰ Χαιρεδήμο[υ] ‘Ραμν(ουσίου) for Ziebarth's correct παρὰ Χαιρεδήμωι ‘Ραμν(ουσίωι). The dative is always used in such constructions with συνθήκας κειμένας. Tillyard also says that the loan was “447 drachmae, 3½ obols,” when his text clearly shows 4½ obols. On the other hand, Tillyard's reading of the numerals is correct and Ziebarth's wrong (ΗΗΗΗΔ⟩ΔΔΓΗΗΙΙΙⱩ). The corpus reading (ΗΗΗΗΔΔΔΔΓΗΗΙΙΙΙⱩ) with no credit to Tillyard and without knowledge of his publication gives from a squeeze the same reading as Tillyard, 447 drachmas, 4½ obols, Ⱶ and Ι combined to look like Η. Michel, *Recueil*, Suppl., 1739 has the correct reading. There are other cases of double publications of *horos* inscriptions without knowledge of the *editio princeps* and these and many other points will be apparent when Professor John V. A. Fine of Princeton (now Captain USMCR) publishes the results of the study he is making of ὅροι, especially those found in the Agora. See also *Hesperia*, Suppl. VII (1943), pp. 1-3.

[2] *Rev. de Phil.*, XLVIII, 1924, pp. 97 f.; Cumont, *Fouilles de Doura-Europos*, 1926, pp. 286-296 ; *Zeitschrift Savigny-Stift.*, romanist. Abt., XLVI, 1926, p. 339.

[3] *Ann. Sc. Arch. di Atene*, I, 1914, pp. 113 f.; *Zeitschrift Savigny-Stift.*, romanist. Abt., XLVII, 1927, p. 494.

[4] Cf. for κατὰ συνθήκας τὰς κειμένας παρά [κειμένας sometimes omitted] (which does not occur before 316 B.C. on ὅροι) Michel, *Recueil*, nos. 1362 B, 1370 ; *I.G.*, XII, 7, 56-57 ; 8, 18 ; *I.G.*, II², 2701, 2724-2727, 2741, 2758, 2759, 2768, 2769 ; *I.G.*, XII, Suppl., 1939, p. 147, 18 ; Ἀρχ. Δελτίον, XIV, 1935, παράρτημα, pp. 31-32, no. 4 ; Ferguson, *Klio*, XI, 1911, p. 265 ; Dow-Travis, *Hesperia*, XII, 1943, pp. 160-165 (for παρὰ τοῦ δεῖνος read παρὰ τῷ δεῖνι). For συνγραφή cf. *Oxyr. Pap.*, VIII, 1105.

Egyptian law the πρᾶσις ἐπὶ λύσει took the somewhat similar form of ὠνὴ ἐν πίστει.[5]
So the hypothecary inscriptions on stone *horoi* are important to students of Greek
law and systems of mortgage. There are four main classes [6] (1) ἀποτιμήματα, mort-
gages as security for property of minors or dowries; (2) acts of simple sale, (3) mort-
gages with a condition of reciprocal usage (ἀντίχρησις); (4) custody or sales subject
to redemption (ἐπὶ λύσει).[7] The last form was in use as early as the fourth cen-
tury B.C. in Attica, Lemnos, Skyros, Amorgos and elsewhere. Aside from the three
examples mentioned above, it is known only from a few Attic orations and from many
inscribed *horoi* such as that here published.[8] Such stones seem unimportant and some
have objected to dignifying them with the word "mortgage," of which in Europe
there are no examples, aside from ancient ones, before the tenth century after Christ.
But, since the discovery of the unique Sardis ἐπὶ λύσει mortgage, we know more about
such transactions and realize that there is a resemblance to the old French mortgage,
the English common-law mortgage, and especially to the Scottish mortgage,[9] still in
frequent use, known as "an absolute disposition with back-bond." The property is
conveyed outright to the creditor as in a transaction of sale, but the fact that it is
really a mortgage is written into a "back-bond" or "back-letter." The creditor has
full title of ownership, but this can be redeemed at any time, and the Sardis inscription
settles this disputed question for ancient times and proves that the property generally
must be reconveyed to the debtor by the creditor and did not revert. The πρᾶσις ἐπὶ

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[5] Cf. *Philologus*, LXIII, 1904, pp. 498-583; Schwarz, *Hypothek und Hypallagma*, 1911, p. 35;
Wilcken-Mitteis, *Grundzüge und Chrestomathie*, 1912, II, 1, pp. 135 ff.

[6] Cf. Harpocration, *s. v.* ὅρος; Pollux, III, 85; Dareste-Haussoullier-Reinach, *Recueil des in-
scriptions juridiques grecques*, pp. 108-142; Roberts-Gardner, *Introduction to Greek Epigraphy*,
II, *The Inscriptions of Attica*, pp. 494-498; Dittenberger, *Sylloge*[3], 1187-1198; Michel, *Recueil*,
1364-1382; *I.G.*, II[2], 2642-2770; Paoli, *Studi di diretto attico*, 1930, pp. 141-194.

[7] Cf. *Wiener Studien*, IX, 1887, pp. 279 f.; Hitzig, *Das griechische Pfandrecht*, 1895, pp.
69-107; *Zeitschrift Savigny-Stift.*, XVI, 1895, pp. 76-107; XXVIII, 1907, pp. 354-371; XXX,
1909, pp. 306 ff.; XXXI, 1910, pp. 467 ff.; Beauchet, *Histoire du droit privé de la rép. athén.*, IV,
pp. 176-194; Guiraud, *Mélanges Perrot*, 1903, pp. 146-148; Pappoulias, Ἡ Ἐμπράγματος Ἀσφάλεια,
pp. 28-38, 53-55; Weiss, *Pfandr. Untersuchungen*, I, 1909, pp. 21 f.; Partsch, *Gr. Bürgschaftsrecht*,
1909, pp. 256-259; Schwarz, *Hypothek und Hypallagma*, 1911, p. 35.

[8] For literary sources cf. Hitzig, Beauchet, and Pappoulias *locc. citt.* For inscriptions cf. also
Beauchet, *op. cit.*, III, p. 345; Dareste-Haussoullier-Reinach, *Recueil des inscriptions juridiques
grecques*, I, pp. 112-116; Michel, *Recueil*, nos. 1364-1375, 1738-1744; *Sitzungsber. Ak. Berlin*,
1897, pp. 664-675; 1898, pp. 782-783; *I.G.*, XII, 8, 18-22 (Lemnos); Robinson, *A.J.P.*, XXVIII,
1907, pp. 430-431 (with references cited there); *Ath. Mitt.*, XXXV, 1910, p. 106, note 3; Paoli
and *I.G.*, II[2] as quoted in note 6; *Jahreshefte*, XV, 1912, Beiblatt, pp. 82-96; *B.S.A.*, XI, 1904/5,
pp. 63 ff.; *Ath. Mitt.*, LIX, 1934, pp. 42, 72 (Skyros); *Hesperia*, VII, 1938, pp. 93-94, no. 14;
X, 1941, pp. 53-54, nos. 16-18; Sundwall, "Unedited Inscriptions from Athens," *Journal of the
Russian Ministry of Public Instruction*, Leningrad, 1912, pp. 253-267 (in Russian. I have a reprint
of this article which is nowhere cited in publications of such inscriptions. There are sixteen *horoi*
inscriptions there, including eight ἐπὶ λύσει).

[9] Cf. Gloag and Irvine, *Law of Rights in Security*, 1897, Chap. IV.
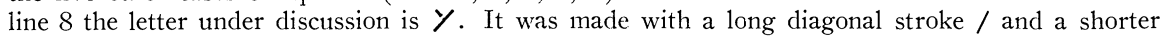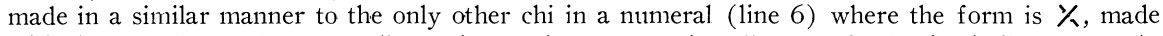
λύσει was a real sale for a definite amount, but it was also considered a mortgage, and a *horos* was set up near the house or on the property so that any passer-by could learn the price, and it was not hidden away in the archives of the courthouse or even entirely concealed, as to-day.[10]

A piece of property was generally sold in πρᾶσις ἐπὶ λύσει to one person, but it could be conveyed to several individuals, corporations, families (γένη), orphaned children (*I.G.*, II², 2644, 2654, 2657), special phratries or their subdivisions, or to sacred and secular clubs (θίασοι). In an inscription which I found in 1907[11] in a shop on Pandrosus Street in Athens (not Aeolus Street, as Von Premerstein says) and which I had deposited in the Epigraphical Section of the National Museum at Athens, there are five mortgagees, more than in almost any other such inscription known to me.[12] The mortgages are given in descending amounts[13] of 1500, 1200, 600, 150, and 100 drachmas to Kephisodoros, the *phrateres* with Eratostratos, the Glaukidai, the Epikleidai, and the *phrateres* with Nikon. As the value of the estate was reached, the size of the mortgage decreased and the order decided the priority of claim, if my reading is correct. These *horoi* inscriptions were not official records, which were the συνθῆκαι, but they could be submitted as evidence in court where their genuineness was often disputed.[14] They were, as Ferguson says,[15] " simply an advertisement made in

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[10] For further information on the conditions of such mortgages see the nine points made in *A.J.A.*, XVI, 1912, pp. 62-64. Cf. also the books cited in notes 7 and 8 above; Lipsius, *Das Attische Recht*, p. 692. Ziebarth's definition in *I.G.*, II², 2684 is not entirely correct, if we can trust the Sardis inscription.

[11] *A.J.P.*, XXVIII, 1907, pp. 430-432; *Ath. Mitt.*, XXXV, 1910, pp. 103-117; *I.G.*, II², 2670.

[12] In *I.G.*, II², 2692 perhaps the names of five mortgagees are to be restored.

[13] Von Premerstein in *Ath. Mitt.*, *loc. cit.*, p. 104 wrongly read (line 8) for the second mortgage HH and interpreted X as the upsilon of 'Αναφλυ(στίο), but the letter is chi and in the last line the abbreviation is 'Αναφλ(υστίο). 'Αναφλ. is the usual abbreviation in inscriptions; cf. Michel, *Recueil*, 832, line 4; *I.G.*, II², 1569, line 61; 1996, lines 145-146; 2019, lines 7, 17; 2051, lines 93, 95, 96; 2119, line 80. The letter under dispute is entirely different. It is entirely different from the five other cases of upsilon (lines 1, 2, 3, 4, 9) where the form is Υ with three strokes. In line 8 the letter under discussion is Ⴟ. It was made with a long diagonal stroke / and a shorter diagonal stroke in the opposite direction which does not touch the first one. This is clear on the stone itself and can even be seen by a good eye in the photograph p. 104. The facsimile of Lattermann (*Ath. Mitt.*, *loc. cit.*, p. 105) is entirely incorrect in this letter. In other words the letter is made in a similar manner to the only other chi in a numeral (line 6) where the form is Ⴟ, made with three strokes and not two diagonals crossing one another (here again the facsimile is wrong). So in our letter there were meant to be three strokes, but the lower right short diagonal was never cut, as might easily be the case in a carelessly and roughly cut mortgage inscription. The second mortgage could not be 400 drachmas less than the third. It is a matter for regret that my original correct text has not been kept in Dittenberger's *Sylloge³*, 1197 and in *I.G.*, II², 2723, where no mention is made of my reading, which has been accepted by French and American scholars, Michel (*Recueil*, Suppl., 1738), Ferguson (*Class. Phil.*, V, 1910, p. 267; *Klio*, XI, 1911, p. 266), and other epigraphists who have seen the stone in Athens or a squeeze or photograph. Von Premerstein thinks that the stone comes from near Laurion and that may be true, though I was told by the owner that it was found in Athens near the Agora.

[14] Cf. Beauchet, *op. cit.*, III, pp. 355 ff.   [15] *Klio*, XI, 1911, p. 266.

the interest of third parties, or by a creditor interested in having the fact of a loan known to his debtor's neighbors in order to secure himself for the future against a possible denial of obligation.

I should like here to publish my third mortgage stone, of which the genuineness would perhaps not have been debated in an ancient Greek court. It was acquired from a dealer long years ago for my collection and is supposed to have been found in Marousi, northeast of Athens, probably near where *I.G.*, II², 2670 was unearthed. It is an irregular fragment of bluish Hymettian marble, badly blackened as if it had come through a fire. The back and side are rough-picked, but the original cut upper edge and left side remain smooth. The bottom is broken away. Originally the stone, which tapered toward the bottom, was much longer and had an uninscribed section which was set in the ground. The inscribed surface was only roughly dressed and is considerably lower below the third line, as if the stone had been reused, which might account for the peculiar order of words (see below), and for the fact that lines 4-8 begin one letter further to the left than the first three lines (cf. Fig. 1).

Height, 0. 19 m.	ὅρος χωρίο
Width at top 0.18 m.; at bottom	πεπραμέν-
0.16 m.	ο ἐπὶ λύσε(ι)
Thickness, 0.03 m. to 0.04 m.	καὶ οἰκίας ·
Height of letters, 0.01 m. (theta in	5 ΧΧ Φιλοκτή-
sixth line, omicron in last line)	μονι ᾿Αθμο-
to 0.02 m. (first rho in first	νεῖ, Θεοκλε
line).	[ῖ] ᾿Αθμονεῖ.

At the end of the third line the iota may not be preserved or it may have been omitted as in *I.G.*, II², 2749. The only other uncertainty in the reading is in line 8 where the first letters are obscure but they seem to be AOM and can be compared with the similar letters at the end of line 6. The slanting stroke after the alpha must then be a mistake or an accidental cutting. No other demotic than ᾿Αθμονεῖ will fill the traces of letters and the well-preserved ending -ονεῖ. It is possible to have two mortgagees and even from the same deme.[16] It is interesting that this deme should be Athmonon of the tribe Kekropis, which is located near the modern Marousi[17] where the inscrip-

[16] *I.G.*, II², 2655 (same deme), 2693, 2695, 2705 (three mortgagees with two from the same deme), 2725, 2735 (two from same deme). In 2692 there seem to be five individual mortgagees, two from the same deme.

[17] Cf. Pauly-Wissowa-Kroll, *R.E.*, *s. v.*, and for similar stones from Athmonon, cf. *I.G.*, II², 2670, 2744 (dated in 315/4 B.C. by the archon Praxiboulos), and 2768. In *I.G.*, I², 865 are published two *horoi* stones of the precinct of Artemis Amarusia, found near Marousi. The region is fertile and has fine drinking water and produces delicious grapes (Aristophanes, *Peace*, 190, Τρυγαῖος ᾿Αθμονεύς, ἀμπελουργὸς δεξιός). No wonder 2000 drachmas could be borrowed on such land especially when a house was erected on it, although at Olynthus a whole house could be bought for 900 to

DAVID M. ROBINSON

Fig. 1. Attic Mortgage Inscription in Baltimore

tion was probably found. The order of words is unique, and as has been said above, possibly lines 4-8 were added later, though I see no great differences in style of letters, except that omicron is smaller. There is, however, at least one parallel to the peculiar order of words,[18] where we have [ὅρος ἐργαστηρίο] πεπραμένο ἐπὶ λύσε(ι) καὶ ἀν-δραπόδων and in *I.G.*, II², 2741 we have the peculiar order ὅρος οἰκίας πε[πραμένης] καὶ τῶν Μελησ[ίου χωρίων?] ἐπὶ λύσει. Another unique feature of our inscription is the placing of the amount of the fairly large mortgage of 2000 drachmas before the names of the two mortgagees. The most important contribution of the inscription is the mention of two important Athmoneans.[19] Philoktemon is undoubtedly the father of a more famous Athmonean who was ἐπιμελητὴς τῶν νεωρίων in 334/3 B.C.[20] Theokles cannot be identified so easily, but he might be the banker Theokles in Demosthenes' *Oration for Apollodoros against Nikostratos*,[21] who lent 1000 drachmas. He might be the Theokles of the tribe Kekropis (to which the deme Athmonon belonged), who is mentioned in *I.G.*, II², 2385, line 69 (middle of fourth century B.C.). The date of our inscription agrees with such identifications, and bankers are mentioned in such *horoi*.[22] It must date between 350 and 325 B.C. The use of o for ου, the forms of the letters, and the lack of mention of the archon's name and of συνθῆκαι[23] date the inscription considerably before 316 B.C. The fact that the deme name is not abbreviated as in the inscription which I published in *A.J.P.*, XXVIII, 1907, pp. 430-431, indicates an early date. That inscription is one of the earliest boundary stones known,[24] although *I.G.*, II², 2654 seems to be dated in 363/2 B.C. So I would date my new inscription a little earlier than the one with five mortgagees, which I have already published.

<div align="right">DAVID M. ROBINSON</div>

THE JOHNS HOPKINS UNIVERSITY

2000 drachmas. The House of Zoïlus, with seventeen rooms, sold for 1200 drachmas; cf. *T.A.P.A.*, LXII, 1931, p. 43 (2000 dr.); LXIX, 1938, p. 48. For an interesting decree of Athmonon in honor of distributing officials (μεράρχαι), dating from 324/3 and found at Marousi, cf. *I.G.*, II², 1203. Cf. also *Ath. Mitt.*, XIII, 1888, p. 351.

[18] *I.G.*, II², 2749. In *I.G.*, II², 2687 we have ὅρος οἰκίας, χωρίου with no connecting καί.
[19] Cf. Kirchner, *Prosopographia Attica*, II, pp. 498-499 for those already known.
[20] *I.G.*, II², 1623; Kirchner, *op. cit.*, 14639.
[21] LIII, 9.
[22] For example cf. *I.G.*, II², 2741 (Eukles, τραπεζίτης).
[23] Cf. Dow-Travis, *Hesperia*, XII, 1943, pp. 159-161.
[24] Dow-Travis, *loc. cit.*, p. 161 agree with me in dating it *ca.* 350 B.C. Cf. *I.G.*, II², 2654.