

THE TRANSLATION OF THE RUBRIC ΕΚ ΤΩΜ ΜΗ ΠΗΘΗ

IN 403/2 B.C., Athens returned to a democratic form of government.¹ Incident to this change, Nichomachos, continuing his revision of the laws, caused to be inscribed on stone a calendrical list of sacrifices. The list of sacrifices was laid out under rubrics. Among the rubrics was a type beginning with the preposition ἐκ, such as ἐκ τῶν κατὰ μῆνα.² The meaning of the rubrics as a whole, i. e. the significance of the preposition ἐκ, will not concern me here.³ The *prima facie* interpretation of the rest of the phrases, after the ἐκ, is relatively clear in every instance except for ἐκ τῶμ μὴ ῥητῆ.

This phrase occurs on a fragment of the inscription first published by A. Hauvette-Besnault in 1879. He offered one or two conjectural interpretations but without any supporting evidence.⁴ U. Koehler republished the text as *I.G.*, II, 844, and referred to Hesychius' explanation of ῥητῆν for ῥητῆ. Of the more recent editors, L. Ziehen in 1906,⁵ J. Kirchner in the editio minor, *I.G.*, II², 1357a, A. Boethius in 1918,⁶ and J. H. Oliver in 1935,⁷ none has offered any explanation of the phrase. On the other hand, modern grammarians have been bolder. K. Meisterhans translated ῥητῆ as an adverb, meaning *palam*,⁸ and B. Delbrueck, although he followed Meisterhans' meaning, considered ῥητῆ as an adjective dependent on an understood βουλῆ.⁹ K. Brugmann reverted to Meisterhans' adverbial construction¹⁰ and E. Schwyzer, the last (1950) to consider the word, implies that he prefers to construe ῥητῆ as an adverb.¹¹ Since the grammarians are not certain of the meaning and construction of ῥητῆ, and as none of the epigraphists except Koehler have offered any well attested explanation, it may be useful to call attention again to the meaning of Hesychius and to explain the phrase as a whole more fully.

¹ The author expresses his thanks to Professor Sterling Dow who posed the question and helped him in writing this paper.

² J. H. Oliver, *Hesperia*, IV, 1935, p. 25.

³ In a paper delivered at the annual meeting of the American Philological Association, 28 December 1956, S. Dow dealt with ἐκ-rubrics, presenting a case for regarding them as indicating sources of law, rather than (as heretofore) funds.

⁴ *B.C.H.*, III, 1879, pp. 69-73.

⁵ *Leges Graecorum Sacrae*, II, 1, Leipzig, 1906, no. 16B.

⁶ *Die Pythais*, Uppsala, 1918, pp. 157-159.

⁷ *Op. cit.*, p. 23 and pp. 29-30.

⁸ *Grammatik der attischen Inschriften*, Berlin, 1888, p. 114 and Berlin, 1900, p. 145.

⁹ *Vergleichende Syntax der indogermanische Sprachen*, I, Strassburg, 1893, p. 586.

¹⁰ *Griechische Grammatik*, edited by A. Thumb, Munich, 1913, p. 468.

¹¹ *Griechische Grammatik*, II, Munich, 1950, p. 163.

To begin with, if the phrase were written out in full instead of in the condensed form which is usual in such inscriptions, there would be at least a noun or participle, agreeing with τῶμ. To this noun or participle, the word ῥητῆ would be subordinate and it in turn would be modified by the μή which immediately precedes.¹² The negative μή instead of οὐ connotes that the following ῥητῆ is generic and collective and not an isolated, specific item.¹³ One might compare the clause of Plato, *Republic*, 486a, ὅταν κρίνειν μέλλης φύσιν φιλόσοφόν τε καὶ μή. A translation of the phrase so far is ‘from those belonging to a class or condition which is not ῥητῆ.’

For the word ῥητῆ, there are two possible constructions: one, that ῥητῆ is an adverb—the final syllable, *eta iota*, being that of the adverb ῆ, Thucydides, II, 70, 4 and III, 51, 3; the other, that ῥητῆ is an adjective dependent on an understood noun.¹⁴

As an adverb, ῥητῆ would be formed from the adjective ῥητόν as ἰδίᾳ is from ἴδιον. The meaning of *palam* which Meisterhans attributed to ῥητῆ is presumably derived from the definition of ῥητόν as φανερόν, occurring in Hesychius, Suidas, and Zonaras. Since ῥητῆ as an adverb with or without the meaning *palam* has not been found by any scholar in the Greek preserved to us, it is only logical to consider the adjectival construction.

The noun with which ῥητῆ would agree must be feminine, singular, and of such frequent occurrence with ῥητῆ that, though omitted, it would still vaguely be sensed as present. Of the feminine nouns that were modified by ῥητή, in the *De Lineis Insectabilibus* of the Aristotelian Corpus, 968b, occurs once or twice γραμμῆ, and likewise in the *Elementa* of Euclid, 10, where its usage was so frequent that it was at times elliptically omitted. However, because as a technical, mathematical idiom, meaning ‘rational line,’ it is not apposite to this inscription, it is excluded from consideration. Although Polybios, XXXII, 22, 7 used ῥητήν with ἀπόκρισις and Plato, *Theaetetus*, 202b, ῥητάς with συλλαβάς, no other such collocations have been found, and the two examples just quoted were doubtless fortuitous and infrequent. ῤητή modifying προθεσμία, ‘statute of limitations’ or ‘stated limit of time,’ I have found three times, but as the three examples are of the fifth¹⁵ and sixth centuries after Christ,¹⁶ and as the meaning, ‘statute of limitations’ or ‘stated limit of time,’ is not germane to a list of sacrifices, it is improbable that it is the noun to be understood with ῥητῆ. The only other feminine singular noun that I have found frequently associated with ῥητή is ἡμέρα. Thucydides used ἐν ἡμέρα ῥητῆ three times, IV, 76, 4;

¹² E. Schwyzer, *op. cit.*, p. 596.

¹³ R. Kuehner, *Ausfuerliche Grammatik der griechischen Sprache*, edited by B. Gerth, II, 2, Hannover and Leipzig, 1904, p. 197.

¹⁴ K. Brugmann, *loc. cit.*, and E. Schwyzer, *op. cit.*, p. 163.

¹⁵ F. Bilabel, *Sammelbuch griechischer Urkunden aus Aegypten*, III, Berlin and Leipzig, 1926, no. 7033.

¹⁶ Società Italiana, *Papiri greci e latini*, I, Florence, 1912, no. 76. Seckel and W. Schubart, *Der Gnomon des Idios Logos*, Berlin, 1919, 99, 2.

VI, 30, 1; VI, 64, 3; and ἐς ἡμέραν ῥητήν twice, VIII, 67, 1; VIII, 93, 3; while Xenophon used the last phrase once, *Hellenica*, III, 5, 6. Moreover, Thucydides also wrote ἐν ῥηταῖς ἡμέραις, VI, 29, 3, and associated ἡμέρα with the verb ἐρέω in the sentence ἡμέρα δ' αὐτοῖς εἴρητο ἧ ἔδει ἅμα ταῦτα πράσσειν, IV, 77, 1, and Xenophon wrote τῶν μὲν προειρημένων ἡμερῶν *Cyropaedia*, VI, 2, 38. Since Pollux, I, 67, stated that ῥητή was used with ἡμέρα, λέγεται δὲ καὶ εἰς ἡμέραν ῥητήν εἰς ἣν ὀρισώμεθα, the frequent association of ἡμέρα with ῥητή is beyond dispute. Moreover, ἡμέρα when agreeing with an adjective was often elliptically suppressed. Demosthenes, *Against Meidias*, 541, did so twice in less than one sentence. The ellipse of ἡμέρα in this rubric is to be expected because the shorter form is in accord with the concise, legal style of the inscription. Since the quotidian and legal usage both support the hypothesis that the noun ἡμέρα is to be understood with ῥητή, the adjectival construction is to be preferred to the unattested adverbial.

The translation of the phrase then becomes 'from those which do not belong to a stated day.' This translation rests upon a conjecture more probable than any other so far proposed but not proved and is in itself not quickly intelligible. What is meant by a 'stated day'? The answer to this question and the confirmation of the conjecture is furnished by Hesychius' definition of ῥητήν. Long ago U. Koehler called attention to it, but when Ziehen republished the fragment in *Leges Graecorum Sacrae* and omitted the reference to Hesychius, the other editors followed suit. When I independently came upon Hesychius' definition, it struck me as the true explanation of the rubric. Thus if we interpret ῥητή in the light of τὴν ὀρισμένην ἡμέραν τοῖς θεοῖς εἰς θυσίαν, the translation of the phrase becomes 'from those which do not fall on a stated day of sacrifice.' The rubric so understood parallels some of the other rubrics such as ἐκ τῶν κατὰ μῆνα and is apposite to a list of sacrifices.

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