CHAPTER TWO

LANGUAGE AND REFERENCES TO LAW

This chapter investigates in what way papyri refer to the applicable law and whether the manner of referring to law changes after the Roman conquest. Each papyrus (or combination of papyri) under discussion presents a case study of the references to law in (a) document(s) of a certain type (for example sale, receipt, loan, deposit). The majority of papyri discussed here are not covered in the case studies of part II, though some overlap is inevitable. Conclusions will be presented in a descriptive section as well as in table form for quick reference.

I. Case Studies

P.Yadin 2 and 3: a Jew amongst Nabataeans

P.Yadin 2 and 3 are two contracts of sale, both in Nabataean Aramaic. They concern the same property that is apparently sold twice by the same vendor but to different purchasers.\(^1\) Despite a few divergences the general structure of the documents is the same and this has been taken to indicate that the texts were written according to a standard model for an act of sale: ‘...they both record the purchase of the same type of property, a date palm plantation, with the result that the same, standard documentary model was utilized in both instances.’\(^2\) The evidence of P.Yadin 2 and 3 on its own would be a bit thin to justify such an assumption.

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\(^1\) How this should be interpreted from a legal point of view is not clear. One is led to believe the first sale was cancelled. But the papyrus does not show any signs of cancellation; see Documents II, 202, where it is explained that one would expect that the papyrus was marked or defaced in some way to indicate that it was invalid and could not be used. An actual instance of this practice is provided by XHēv/Se 69, a cancelled Jewish marriage contract, written in Greek and dated 130 CE (Cotton 1997a: 250). After the dissolution of the marriage by death or divorce, that papyrus was marked by “pen strokes crossing diagonally, as well as over the signatures on the back.” No such markings appear in P.Yadin 2. There is also the consideration that invalid documents were often discarded. Why attempt to preserve them?

\(^2\) Documents II, 201.
Since the documents concern the same sale (same vendor, same object) and are written by the same scribe, one could assume that P.Yadin 3 is a slightly adjusted version of P.Yadin 2. Consequently, both documents need not necessarily represent two examples of the same standard model for an act of sale. However, another text that has been adduced, XHev/Se 2 nab (a Nabataean act of sale) that bears great resemblance to P.Yadin 2 and 3, lends credit to the assumption that a standard model for acts of sale did exist. Indeed, it has been remarked that this document ‘exhibits only a very few minor variations in formulation, fewer than are observable between P.Yadin 2 and 3, or, at points, even between the UPPER and LOWER VERSIONS of each of the same!’

The vendor, a woman named 'Abi-'adan, sells a ‘plantation of date palms,’ first to a Nabataean named Archelaus, and then to a Jew named Shim'on, most likely the father of Babatha. Since the vendor is in both cases a Nabataean, and the purchaser in the first instance as well, it is not odd that the documents were written in Nabataean Aramaic. In the edition this is remarked on as:

It is of great interest, nonetheless, that a Jew purchased property located in the Nabatean Kingdom from a Nabatean owner, under the provisions of Nabatean law, and that the deed of sale was written and witnessed by Nabateans.

While ‘property located in the Nabatean Kingdom,’ ‘from a Nabatean owner’ and ‘written and witnessed by Nabateans’ are clearly conclusions derived from the facts as presented in the text, this cannot be said to be the case for ‘under the provisions of Nabatean law.’ In fact, the editors do not explain what prompted this conclusion. It seems to be related

\[\text{Documents II, 203–204. For the text concerned see Ada Yardeni, Textbook of Aramaic, Hebrew and Nabataean Texts from the Judaean Desert. A: The Documents (Jerusalem: Ben-Zion Dinur Institute, 2000), 290–292.}\]

\[\text{Documents II, 204.}\]

\[\text{See Documents II, 201: ‘apparently Babatha’s father,’ and 242, where it is said that ‘since the name of the father of the present Shim'on is missing in both versions of P.Yadin 3 it is not possible to identify him with certainty.’ I agree with the editors that it is likely it was Babatha’s father because of the inclusion of the document in the archive.} \]

\[\text{For the rendering of the name of Babatha’s father as Shim'on, while it was earlier rendered as Simeon, see 9 n. 12 above.}\]

\[\text{The guarantor involved in P.Yadin 3, the son of LTY, mentioned in lines 16ff./43ff., was probably also a Nabataean.}\]

\[\text{Documents II, 242.}\]