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ὠνεῖν = πωλεῖν

Though mentioned by Hesychios<sup>1</sup>, the usage of active ὠνεῖν in the sense of πωλεῖν is peculiarly Cretan and restricted to Gortyn, where it occurs once in the Code and once in a later inscription. Other examples of this Cretan preservation of active forms exist: ἐπελεύθειν = *bring* occurs twice at Gortyn<sup>2</sup>; and πεύθειν = *inform* can be cited both from Gortyn and from Malla<sup>3</sup>.

The original sense of πωλεῖν, as with correlatives in other Indo-European languages, is *to barter* or *offer for sale*<sup>4</sup>. As Pringsheim has observed<sup>5</sup>, this earlier meaning, as well as the simple meaning *to sell*, still occurs in Herodotos. For, whereas in Hdt. 2.92 and 8.105 the meaning is *to sell*, in 1.196 the herald first offers the woman for sale by auction (κῆρυξ πώλεσκε) and this offer is distinguished from the following actual sale (ἐπωλέοντο δὲ ἐπὶ συνοικήσει). Similarly, in 3.139, Syloson says that he is not offering the cloak for sale at any price.

Though no definite conclusion can be reached from examination of Hdt. 1.165 (probably the sale itself), 5.6 (probably an offer for sale) and 9.80 (doubtful), Pringsheim has argued that the original meaning is confirmed by Aristotle's statement<sup>6</sup> about Solon's πωληταί, who auctioned the mines, the taxes and confiscated property. Such an auction began with the public offer for sale; and πωλεῖν is the term for this putting up to auction. Probably this term comprehended the knocking down which followed. It certainly did not include the definite assignment, the transfer of

<sup>1</sup> ὠνεῖν· πωλεῖν, ἀπολαύειν (Cf. ὠνῆσαι· ἀγόρασαι Zonar). A pejorative sense seems implied by the gloss ἀπολαύειν, so marked in its cognates Dor. λῆα, Att. λεία, Lat. *Laverna*, *latro*, *lucrum*, cf. Goth. *laun* = payment, Slav. *loviti* = capture. Cf. Buck *The Greek Dialects* p. 128; Bechtel *Griechische Dialekte* 2 p. 769

<sup>2</sup> Leg. Gort. III. 45, 52—3, IV. 7—8, 10, 15—16 and somewhat earlier (beginning 5th C. B. C.) in Inscr. Cret. 4. 41. I. 9—10, II 15, VII 3—4. But cf. Hsch. ἐλευσῶ· ὀσσω, Dor. 3 pl. aor. ἐλεύσαν Ibys. Oxy. 1790. 18

<sup>3</sup> Leg. Gort. VIII. 55, Inscr. Cret. 4. 83. 3, 7, 9—10 (c. 480—50 B. C.), 162.7 (3rd C. B. C.), 163.5 (3rd C. B. C.), ib. 1. XIX 3 (Malla) (c. 3rd C. B. C.)

<sup>4</sup> Boisacq s. v., Pringsheim, *The Greek Law of Sale* p. 97

<sup>5</sup> Ibid.

<sup>6</sup> Ath. 47.2

ownership, the actual sale. For this act another term is used, called κυροῦν (κατακυροῦν). In Aristotle's description of the auction of mines and taxes the κυροῦν is clearly distinguished from the preceding πωλεῖν (τὰ μέτ' ἄλλα πωλοῦσι κτλ). In the auctioning of confiscated property the πωλεῖν is the act of the πωληταί, the κατακυροῦν that of the ἀρχοντες.

ὠνεῖν is used in this same original sense of πωλεῖν in the interesting context of the Gortynian decree<sup>7</sup>, now generally dated to the 3rd C. B. C., enforcing the use of bronze coinage put into circulation by the authorities and the withdrawal from circulation of silver obols. A fine of five silver staters is imposed on anyone accepting silver obols, refusing bronze money or *offering anything in exchange for grain*: αἱ δὲ τις δέκοιτο ἢ τὸ νόμισμα μὴ λείοι δέκεσθαι ἢ καρπῷ ὠνίοι, ἀποτεισέῃ ἀργύρῳ πέντε στατήραν. Here the sense of *barter* is clearly preserved by the context.

The context of the earlier example from the Code emphasizes this sense of ὠνεῖν as an offer by the vendor to exchange. This is met by an offer from the highest bidder and the agreement is then followed by the exchange: ὄνεν τὰ κρέματα κῶς κα πλείστον διδοῖ ἀποδόμενοι.

While ὄνεν is thus used in the Code for the act of the vendor, ὀνεῖσθαι (ὀνεῖσθαι) is used for the complementary act of the purchaser in making his offer to buy<sup>8</sup>. This sense is familiar in Herodotos<sup>10</sup> — where the simple meaning *to buy* also appears<sup>11</sup>. It is also probably used by Hesiod in the same sense<sup>12</sup>.

Sale in ancient Greece was cash sale and cash sale was not a contract but a barter, the exchange being preceded by an agreement, by an offer to sell which is met by an offer to buy. This contractual

<sup>7</sup> Inscr. Cret. 4.162

<sup>8</sup> Leg. Gort. V. 47—9

<sup>9</sup> Leg. Gort. VI. 2ff. ὅς κ' ὁ πατὴρ δόξει, τῶν τῶ πατρὸς κρεμάτων πᾶρ υἱός με ὀνεῖσθαι μετὰ κατασθ/θεῖσθαι and X. 25ff: ἀντρῶ[π]ον με ὀνεῖσθαι κατασθ/μενον. When the penalty for infringement against the first regulation is fixed, i.e. after a sale has actually been made, πρίασθαι is used: αἱ σὲ τις πρίατο . . . ὁ δ' ἀποδόμενος . . . τῷ πριαμένῳ . . . διπλεῖ κατασθ/σσει (VI.13—23).

<sup>10</sup> Hdt. 1.1, 69, al.

<sup>11</sup> Hdt. 5.6., 8.105, 9.80, noted by Pringsheim op. cit. 96

<sup>12</sup> Op. 341: ὅφρ' ἄλλων ὠνῇ κλῆρον, μὴ τὸν τεὸν ἄλλος. Rightly, I think, cited by LSJ s. v. to illustrate the meaning *offer to buy, bargain or bid for a thing*. But cf. Pringsheim (op. cit. p. 96 and n. 2.) who thinks it more likely that the poet here, although regarding sale of land as a misfortune, supposes its free alienability and that ὠνεῖσθαι would then simply mean *to buy*.

element is usually expressed in the terms πωλεῖν/ὠνεῖσθαι<sup>13</sup>. At Gortyn the terms were ὤνειν/ὠνεῖσθαι<sup>14</sup>.

We probably owe the preservation of the full formula in Leg. Gort. V. 47ff., of the offer to sell, met by an offer to buy, followed by sale to the highest bidder, the whole process being concluded by a division of the proceeds among the heirs (τῶν τιμῶν δια- [λ]ακόντων τῶν ἐπαβολῶν Ἰέκαστος) to the special circumstances in which alienation of the estate is allowed.

So long as the parents are alive there is no need to make a division of the property<sup>15</sup>. When they die, the sons inherit town-houses and the contents of houses not inhabited by serfs, together with the cattle which do not belong to a serf. All the rest of the property has to be fairly divided, sons receiving two parts and daughters one part each<sup>16</sup>. The heirs are specified<sup>17</sup>. There follows an important regulation which makes it clear that official authority now favours division of inherited property. For if some of the heirs wish to divide the property and others do not (i. e. prefer to share in a joint holding), the judge is to decree that *all* the property is to be in charge of those who wish to divide until they do divide it<sup>18</sup>.

If the heirs do not wish to make a division of livestock, produce, clothing, ornaments and movable property, this matter has to be decided by the judge under oath „with reference to the pleas“ (πορτὶ τὰ μολιόμενα)<sup>19</sup>. There follows (V. 47ff.) the regulation discussed above enjoining the sale of property, i. e. presumably real estate as distinct from livestock, produce and other movables, in case of disagreement about the division. Official pressure in favour of division is followed by pressure in favour of alienation of citizens' property.

The regulation is expressed in the archaic terminology appropriate to the custom of shared inheritance preceding free testamen-

<sup>13</sup> Pringsheim op. cit. p. 98

<sup>14</sup> Pringsheim comments, ib. p. 97: "Perhaps this usage represents a peculiarity of the Cretan dialect: but Leg. Gort often attests archaic concepts which correspond to a much earlier stage of development than the date of the law . . . would suggest." He supposes that at Leg. Gort. V. 47: (ὄνειν τὰ κρέματα κῶς κα πλείστον διδοῖ ἀποδόμενοι) an auction sale is implied. Though it is true, as he says, that in sales by auction the distinction between agreement and actual sale is particularly evident, there is no reason why sale by private treaty should be excluded.

<sup>15</sup> Leg. Gort. IV 27—9

<sup>16</sup> Ibid. 31—43

<sup>17</sup> Ib. V 9ff.

<sup>18</sup> Ibid. 28ff.

<sup>19</sup> Ibid. 39ff.

tary disposition, which has no place in the Code. The novelty lies in the postponement of the sharing until the property has been sold<sup>20</sup>. It is not now the property that is shared but its equivalent in values. The novelty is emphasized by the elaboration of the sale formula. For in the immediately following regulations<sup>21</sup> which restrict sale, mortgage etc. of the family property, only the word ἀποδίδοσθαι, connoting the completion of the exchange, is used.

The same meaning should be attached to ἀποδίδοσθαι elsewhere in the Code<sup>22</sup>, while the opposite meaning of actually buying, completing the cash sale, attaches to πρῆσθαι<sup>23</sup>. But the sense *offer to buy* is attached to δυνεσθαι (δύνεσθαι) elsewhere<sup>24</sup>, with the implication, not merely that purchase in certain cases is invalid, but that there is an initial responsibility for *not* making an offer, irrespective of the legal consequences.

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<sup>20</sup> Hammond (in JHS 73 [1961] pp. 76ff) has argued that, in Attica, the land divided into κληροί among the clansmen seems to have remained inalienable until the Peloponnesian War. He considers, however, that the hill country which forms the bulk of the land surface presumably lay outside the *genos* system of ownership which derived from original allocations; and that when Aristotle said a law forbade the sale of 'original estates' (Pol. 1319a 11), he implied that other property in land could be sold or acquired. The farm of Hesiod's father in Ascra was probably on such land, as he was an immigrant (ib. p. 86 and n. 45).

<sup>21</sup> Leg. Gort. VI. 2ff.

<sup>22</sup> IX. II. 45

<sup>23</sup> VI. 13, 20, 37, 39—40; VII. 11; IX. 8, 12. Cf. n. 9

<sup>24</sup> VI. 4, X. 25