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NOTE TO THE *PHIALAI EXELEUTHERIKAI*. RESPONSE TO VELISSAROPOULOS-KARAKOSTAS

J. Velissaropoulos-Karakostas has given us a new interpretation of the phialai inscriptions, the 33 fragmentary texts—now 34—that may have appeared on 17 (Lewis) or 18 (Meyer) stēlai.[1] She begins by combining an outline of the main features of these texts with a synoptic view of past interpretations—and there are a great many. It goes without saying that texts that elicit plentiful interpretations are difficult texts, and that the announcement of a new interpretation implies the inadmissibility or implausibility of previous ones. In such circumstances, where there has been no final consensus about what certain texts mean or what they represent, even to report their contents as a preliminary to further discussion is no easy task—and Velissaropoulos has carried it out with extraordinary skill—I note, for example, how careful she is in giving a designation to these texts: they are in the first instance and most often *phialai exeleutherikai*, but also more simply 'a group of documents' or 'inscriptions.' The first designation, however, is the most significant: for Velissaropoulos sees the texts as part of the manumission process and thus at the start we see that she has left behind the most recent detailed interpretation, that of Elizabeth Meyer.

Velissaropoulos begins with a concise depiction of prevailing views of the nineteenth and twentieth centuries (the twenty-first century is excluded as there is no 'prevailing view' at the moment); the most basic one is this: in Athens, from

[1] The newest fragment (discovered on the Acropolis in 1858, now lost) was edited by G. Malouchou 2013: 202-207.

approximately 330 to 317/16 BCE, the emancipations of slaves stemmed from a judicial process designated the *dikē apostasiou* (as restored by Wilamowitz in the heading of IG II^2 1578); the emancipations were accompanied by dedications of silver bowls weighing 100 drachmas each. Kränzlein provided a typology of the texts at the first Symposion meeting in 1971 and Velissaropoulos gives an artful selection of examples of each.

(1) The first and most numerous type supplies the fullest information about the parties: slave name in the nominative, then dwelling place, craft, and participle ἀποφυγών or ἀποφυγοῦσα; next, patron's name in the accusative with demotic or domicile, and finally the mention of the bowl and its weight.[2] The participle (ἀποφυγών or ἀποφυγοῦσα: an analogous example in *IDélos* 104 [26] C is offered in n. 5) appears in a judicial context and indicates that the defendant, victorious in a real or fictive trial against his master, dedicates a bowl that is paid for by the latter.

(2) The second type, fewer in number, differs from the first by changes in grammatical case: now the patron's name appears in the nominative and the slave's name in the accusative; additionally, no participle follows the slave's name (neither ἀποφυγόντα nor ἀποφυγοῦσαν); still, the bowl and its weight are mentioned. In this type, 'the processes were most likely completed without, properly speaking, a victorious party, the freedman returning to his servile status and the phialē being offered by the patron' (my trans. of Velissaropoulos).[3]

(3) The third type, represented by only two fragments (IG II^2 1576 and 1578), has the slave name in the nominative, then craft and domicile, abbreviations of the aorist of ἀποφεύγειν, followed by the patron's name in the accusative; in these, there is no mention of a bowl (contra Meyer 2010: 136), either because the bowl is to be inferred, or (more plausibly for Velissaropoulos) because the ἀποφυγών had already dedicated a bowl during an earlier phase of the procedure of his emancipation.[4]

Velissaropoulos then turns to variant nineteenth and twentieth century views of these documents: the bowls mentioned in them were offered to a divinity by a manumitted slave who had been acquitted in a *dikē apostasiou* brought by his master on the grounds that he had deserted him or had not fulfilled his final obligations; victorious now, the manumitted slave's status as a freed man was definitively confirmed. Further refinements evolved: the *dike apostasiou* was a collusive fiction

[2] Kränzlein 1975: 256 actually designates this as a 'Bürgername' and does not mention domicile here, thus ignoring at this point in his essay that the names of metics also appear in this position.

[3] Here we have (what seems to me to be) a blend of the prevailing twentieth century view for the first type and something of Kränzlein's for the second; the latter thought that the second type was simply a change of formula from the first: manumissions took place in the dikasteria and the former master paid a fee in the form of a bowl.

[4] Kränzlein (1975: 264) thought the bowl's absence indicated dedications of another sort resulting from a *dikē apostasiou*.

between master and a slave; victory over his master conferred total freedom on the slave. Consensus among scholars, however, remained elusive; some objected that a freedman whose status was in doubt would not be able to appear in court; moreover, the fact that metics and foreigners appear as the masters of slaves renders any trial, real or fictive, impossible; accordingly, some concluded that the offering of a bowl by the freedman was a formality that aimed at publicity for his freedom upon manumission—it was not the result of a trial.

When Velissaropoulos steps fully into the twenty-first century, she takes up Elizabeth Meyer's provocative thesis that the phialai inscriptions emerge from *graphai aprostasiou*, from trials against metics who did not pay the *metoikion* or who did not have a *prostatēs*. Velissaropoulos takes it up—but only to put it down quickly, for, understandably, due to time and space constraints, she relies upon Vlassopoulos' oft-cited negative critique of Meyer's explication of the judicial context.[5] She then focuses upon the brief period, 330-317/6, during which these inscriptions appeared and suggests they were a remedy for some unknown set of circumstances for 'affranchisements déjà réalisés':[6] the ἀποφυγόντες appear to have been freed earlier (they are already living apart from their 'adversaries') and by reason of their freedom, are able to sue in court; moreover, their residence apart from their 'adversaries' suggests that the process in question was not connected to *paramon*ē (by which Velissaropoulos implies that the phialai inscriptions have nothing to do with *dikai apostasiou*). She then asks—why should emancipated slaves have their status confirmed by a court decision?

Here Velissaropoulos enters upon the most interesting part of her argument. She first points out that because the emancipation procedure in Athens was informal and the city did not intervene except to exact a tax and require the former master to serve as *prostatēs*, the status of a freedman might easily be questioned as it largely lacked documentation and publicity. And while such publicity might be given by proclamation in a temple or theater, such proclamations of slave manumissions, as well as proclamations of 'foreign crowns' and individuals crowned by a tribe or deme in the theatre of Dionysos, had apparently at one time been so frequent and so noisome in Athens that a law (the 'Dionysiac law') was enacted, forbidding those very proclamations—unless 'the People vote' (Dem. 18.120-121; Aeschin. 3.32; 34, 36, 44; Canevaro 2013).[7] Velissarpoulos offers an original

[5] Vlassopoulos 2011.02.48.

[6] Velissarpoulos does not address Meyer's (2009: 67) argument, accepted by many scholars (including Vlassopoulos), that the bowls themselves may have been inscribed and dedicated as early as the 350s but began to be copied into inventories only in 330.

[7] Two laws are at issue in these passages, one regulating the awarding of honors by the Assembly and Council, the other regulating proclamations in the theatre of Dionysos. When Aeschines reports the latter law in 3.44, he omits the 'permission clause' (allowing proclamation if 'the People vote'). Modern scholars almost uniformly believe that the permission clause belongs to the Dionysiac law; thus: Goodwin 1904/2014: 262-64; Gwatkin

and interesting interpretation of this law— indeed, its meaning has largely been ignored by scholars who have mostly contented themselves with disentangling the 'Dionysiac law' from the 'Assembly law'. For Velissarpoulos, the law curtailed the intervention of the theatre and spectators in functions that properly belonged to the city's institutions; decreeing a crown in a deme or tribe provided an honor that was limited in scope, both territorially and institutionally; it was not to be enforceable by or before a civic body—it could not be so informally foisted upon the city's notice—except by a decree of the people. Velissarpoulos points out that Aeschines does not mention penalties in the law for the owner who frees the slave nor for the slave who has been freed—but only for the herald who makes the proclamation (he is to be *atimos,* 3.44), that is, only for the person who makes the act known to the people. Moreover, while the law apparently declared μήτ' οἰκέτην ἀπελευθεροῦν ἐν τῷ θεάτρῳ, it seems not to have nullified the emancipation itself—the freeing of the slave had taken place before the proclamation was made. Hence it was the act of making the emancipation public—to so large a public—that the law prohibited; this was viewed, Velissaropoulos argues, as injurious to the functioning of civic institutions. Not only a decree of the Council and Assembly was required for such public recognition, but also serious proofs and testimony that would permit the honor (the proclamation of an emancipation or of a crown conferred by deme, tribe, or foreign city) to be enacted in the first place. A theatre could not perform this function—not even the theatre of Dionysos; this is an important observation, for it suggests that a significant 'red line' was drawn between the activity of the theatre and that of the Pnyx and bouleutērion.

But what could furnish serious proof of an emancipation? Velissaropoulos answers: 'l'offre d'une *phialè,* le paiement d'une taxe ou la parution devant le tribunal constituent des formes de publicité aptes de fournir la preuve irréfutable de l'affranchissement.' She then chooses to focus on the dikastērion and bolsters her hypothesis of its intervention in emancipation with Isaios fr. 8 (= Thalheim XVI. fr. 15 = Dion. Hal. *Isaios* 5); here Dionysios, who preserves the fragment, reports that the Athenian citizen who had removed Eumathes into freedom and defended him in court had said: ἄγοντος αὐτὸν Διονυσίου ἐξειλόμην εἰς ἐλευθερίαν εἰδὼς ἀφειμένον ἐν τῷ δικαστηρίῳ ὑπὸ Ἐπιγένους. Velissaropoulos depicts the two instances of status determination here: the first concerns a certain Epigenes who had emancipated his slave Eumathes before the court (ἀφειμένον ἐν τῷ δικαστηρίῳ ὑπὸ Ἐπιγένους) and the second concerns the speaker's 'removal [of Eumathes] into freedom (ἐξειλόμην εἰς ἐλευθερίαν)' when Dionysios tried to enslave him (the subject of the current lawsuit). Without further discussion of the cases in Isaios, Velissaropoulos moves forward and connects the temporal proximity of Aeschines' speech with the court cases which ended with the dedications of phialai: the temporal proximity allows us

1957: 136-39; Canevaro 2013: 293-94; Harris 2013: 233. That the clause belongs instead to the 'first law': Blass 1887-98: iii/2, p. 213 (refuted by Canevaro 2013: 291, n. 142).

to consider the court cases (alluded to on the phialai) as actions that would replace the proclamations in the theatre and that would make the emancipations enforceable. She then adduces a number of inscriptions from other Greek cities in which the dedication of a bowl or the payment of a tax was required by law when emancipations took place; the inscribed bowl or official register of taxes would thereafter serve as proof of emancipation. Velissaropoulos concludes by arguing that the informality of the emancipation process in Athens may have often led to disputes that called for settlement in a court; apparently, these would be instances of the court's intervention and would produce, in the future, the irrefutable evidence of the freed person's status (like the inscribed bowl and tax registers in other cities): the Athenian phialai worth 100 dr. apiece might represent either the price of a slave's freedom in the form of a dedication to a divinity, paid by the emancipated person who won his case, or the price of enslavement, paid by the slave's owner who had emancipated his slave without respecting the Dionysian law reported by Aeschines.

There is much to commend here, especially the notion that the courts had stepped in to provide publicity for status and hence the enforceability that the Dionysiac law had curtailed; this is an important and stimulating argument about the active and evolving functioning of the Athenian *dikastastēria*. More might be said, however, of the fragment from Isaios: surely the earlier case depicted there (καὶ μετὰ ταῦτα ἄγοντος αὐτὸν Διονυσίου ἐξειλόμην εἰς ἐλευθερίαν εἰδὼς ἀφειμένον ἐν τῷ δικαστηρίῳ ὑπὸ Ἐπιγένους) needs some argumentation before one can claim persuasively that it shows 'un certain Epigènes qui a affranchi son esclave devant le tribunal'. Has an emancipation become a legal proceeding? How so? Or was Eumathes' status as a freedman disputed and was he then 'acquitted' (ἀφειμένον) through the agency of a certain Epigenes who had 'removed him into freedom' and then had spoken on his behalf in a *dik*ē *exaireseōs*, just as the speaker of the Isaios fragment is now doing? Or suppose Epigenes was being sued and his opponent had challenged him to hand over his slave Eumathes, could Epigenes have responded by freeing him then and there (cf. the conduct ascribed to Pasion in Isokr. 17. 14 and 49), and might that be the phraseology used in this passage, viz., 'Eumathes was released (sc. « as free ») in the court'?[8] Regarding the 100 dr. that might represent 'le « prix de l'esclavage » à la charge du patron qui a affranchi son esclave sans respecter les prescriptions de la loi rapportée par Eschine. . .', this is mere hypothesis; there is no evidence for such a penalty. Nonetheless, the notion that the lawsuits alluded to on the bowls could be of different types is appealing (e.g., a *dik*ē *exaireseōs*, *dikē apostasiou,* or even a *graphē aprostasiou*); this may not be what Velissaopoulos was arguing, but I think her argument leads in this welcome direction.

[8] Note that ἀφιέναι commonly means 'release' and as a 'legal' term commonly means 'acquit'. In contexts where an emancipation is meant, ἐλευθέρ- is added, thus meaning 'released as free': see Dem. 29.25-6; D.L. 3.41; 5.55; cf. [Dem.] 59. 30: ἀφιέναι οὖν αὐτῇ ἔφασαν εἰς ἐλευθερίαν χιλίας δραχμάς, πεντακοσίας ἑκάτερος..

David Lewis offered wise and often quoted comments at the end of his *Hesperia* article in 1959 (p. 239): 'The truth of the matter is that our evidence is inadequate. Another fragment of the law of IG II^2 1560 or another prescript would improve our position. At the moment we cannot do more than guess at the legal procedure involved, and in the absence of precise dates, speculation as to the political background of this large body of inscriptions is quite unprofitable.' Nonetheless, headway into dating has been made since 1959 by more refined prosopography and by a better understanding of the methods of inventorying; and scholars such as Velissaropoulos, Meyer, and Zelnick-Abrahamson have allowed us to reflect more deeply on the workings of legal and bureaucratic (inventorying) procedures even if these have not yet become certain or fully explained. While any solution should stand upon a thorough examination of all the problems in these texts, I should like at the end of this review to throw out some suggestions.

First, as intimated already, I do not think we should be led by the different restorations of the heading in the *cymation* of *IG* II^2 1578 (Meyer 29) to think that all the cases involved either *dikai apostasiou* as proposed by Wilamowitz or *graphai aprostasiou* as proposed by Meyer.[9] Perhaps different kinds of case or different sets of circumstances, all having to do with bowls depicted in inventories as *exeleutherikai,* led to the dedication of the bowls so designated: indeed, Velissaropoulos has set down important groundwork here for such a thesis—and such circumstances might even include the bowl as a tithe for a frivolous prosecutor in a *graph*ē *aprostasiou*.[10] Secondly, I think we should pay careful attention to Meyer's description of the inventory process by which she argues that the phialai texts were inscribed: namely, that they were copied from the bowls themselves; the inventory-writer himself may be responsible for the change in formulae mentioned earlier.[11] Surely we should keep this important figure in mind; and also the temporal distance between the inscribing of the inventory and the original inscribing of the bowl. Although the analogy may seem grossly inexact, still it may be helpful to think of other kinds of

[9] Wilamowitz' restoration (1887: 110 n. 1) was incorporated into IG II^2 1578.2.

[10] This may have been a time when prosecutorial penalties were being reconsidered: it was in the late 330s, as most scholars think, that *eisangelia* became a procedure that carried a penalty for a prosecutor; see, e.g. Phillips 2006: 275-277.

[11] Meyer 2009: 67, about the 'inventory-writer': while he has all the names from the phialai themselves, 'probably inscribed on the exterior circumferences of the vessels in small and squashed letters, he has no verb of dedication. Who—metic or prosecutor—had dedicated the phialē? It was argued above that the failed prosecutor tithed his fine, but the escaped metic actually made the dedication to Zeus Soter/Eleutherios; both names might have been inscribed on the phialē to give credit (in telegraphic fashion) for both acitivities. [Drawing] But the information on the phialē might have been too telegraphic for inventory-writer or mason, and his (or their) uncertainty resulted in two different formulae on the lists, as well as erasures changing the case of *phialē* from accusative to nominative in *IG* II^2 1569, and nominative to accusative in *SEG* XXV.180 (Agora inv. I.5656).'

original dedications that are extant today. I offer just one, of a common type: *IG* II^2 3201, an Attic base ca. 346/5, with three wreaths for an unnamed man; each wreath is inscribed inside as follows:

sinistra in corona:	media in corona:	dextra in corona:
ὁ δῆμος	ἡ βουλή.	οἱ φυ̣[λέται]
ταξιαρχή-		γυμν[ασι]-
σαντα		αρχή[σαν]-
ἐπὶ Ἀρχίο		τα Ἡφ[αί]-
ἄρχοντος.		στια.

inside first wreath:
'The *demos*: his service as taxiarch in the archonship of Archios.'
inside second wreath:
'The *boule*.'
inside third wreath:
'The *phyletai*: his service as gymnasiarch during the Hephaestia.'

There are no verbs; in each case we must supply, 'decrees a wreath for' or simply 'wreaths'. The etched wreath on the statue base serves as an icon that graphically depicts the missing word/s. For the inscriber of the bowl, the bowl itself may have similarly stood for missing words: 'dedicates the bowl'; for surely the inscriber of the bowl didn't write them (at least, not the word 'bowl')—the inscriber of the inventory did. If this is so, then the nominative subject in the *phialai* texts might not represent a court 'winner' but simply the provider of the bowl; or possibly the nominative represents 'X the one [freeing or releasing (possibly as a result of a trial, who knows?)] Y.' If so, then the verbal expressions may conceivably have been represented in thought as ὁ ἀπαλλάσσων or ὁ ἀπελευθερῶν; if written in abbreviation, surely the meaning will have confounded the inscriber of the inventory: X ἀπ Y. And it will be he, the inscriber of the inventory, who added the bowl or not, nominative or accusative, as the wind blew.

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