

THE MONASTERIES OF THE FAYYŪM¹

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In the Moritz collection acquired in 1929 by the Oriental Institute are three Arabic parchment documents of the fourth century Hijrah (tenth century A.D.), two of which are contracts of sale of property, while the third deeds property as a charitable grant to what seems to be the earliest known and definitely named monastery of the Fayyūm. A few facsimiles and transcriptions of somewhat similar contracts of sale² have been published from time to time. But these, without exception, have been given us with meager notes and partial translations. Again, though *waḳf* documents are too numerous to mention, Arabic documents of another form of charitable donation, namely, the *ṣadaḳah*—to which our third document here belongs—are comparatively rare, and rarer still are they in connection with Coptic monasteries. It is, therefore, the object of this study to give an annotated translation of the three documents and to follow up the last—to us the most interesting of the three—with a historical sketch of the monasteries of the Fayyūm.

ARABIC CONTRACTS OF THE FOURTH CENTURY HIJRAH

The three documents here presented are linked together by locality, time, and principal characters. The properties concerned were located

¹ Grateful acknowledgments are due Professor Sprengling for his patient reading and criticism of the manuscript and for his invaluable help with the translation of the much involved legal terminology. My thanks are also due to Miss Elizabeth Stefanski for helpful suggestions with some of the Coptic names.

² Cf. Moritz, *Arabic Palaeography* (Cairo, 1905), Pls. 112–13, 115–16; Abel, *Aegyptische Urkunden aus den Koeniglichen Museen zu Berlin, Arabische Urkunden* (Berlin, 1896); Erman and Krebs, *Aus den Papyrus der Königlichen Museen* (Berlin, 1899), pp. 284–90, which contains partial translations of some of the documents given by Abel; Margoliouth, *Catalogue of the Arabic Papyri in the John Rylands Library* (Manchester, 1933), pp. 101 ff. A sale contract from Sinai of much later date, 988/1580, is published with an annotated translation by Aapeli Saarisalo in an article entitled "A Waqf-Document from Sinai," appearing in Vol. V of *Studia orientalia* of the Finnish Oriental Society (Helsingfors, 1933). Though considerably different from the earlier Fayyūm documents, it is, nevertheless, interesting in showing the persistence of similar phraseology; for which point cf. also 'Alī al-Naifar al-Tūnisi, *Kitab al-Durr al-Manẓūm fī Kayfiyat Kutub al-Rusūm* (Tunisia, 1298/1881), pp. 58–70, etc. Other judicial, and especially marriage, contracts have been more recently published by Grohmann (after this paper was written), in *Der Islam*, XXII (1934), 1–69.

in the town of Buljusūk-Bursh in the southwestern part of the Fayyūm, a little to the north of the Gharak region. In the first and earliest document Marḳūrah, son of Kail, is selling some of his property to Tūsānah, daughter of Bisanti, his next-door neighbor on the west. In the second document, written some eight months later, he is selling the rest of his property to Ḳalhash, son of Boḳtor, and in the third document, written again some three months later, Tūsānah, daughter of Bisanti, is deeding some of her property as a charitable grant to the Naḳlūn and Shallā monasteries situated in the desert to the northeast of Buljusūk-Bursh.

The documents have yet another point in common. They are drawn up in accordance with the Muslim law of sale and of charitable grant (*ṣadaqah*). The fundamental principles of the law of sale are practically identical in the four leading schools of Muslim jurisprudence but differ somewhat in that of *ṣadaqah*. The two systems most widely accepted in Egypt were the Shāfiʿite throughout the country and the Mālikite in Upper Egypt. But since al-Shāfiʿī was an eclectic, we find in these primarily Shāfiʿite-Mālikite documents of the Fayyūm some Ḥanīfite principles and terminology, making it necessary to refer to works representing the three schools.³

³ For these schools and their founders see article "Fiqh" in *Encyclopedia of Islam*; Nicolas Aghnides, *Mohammedan Theories of Finance* (New York, 1916), pp. 133-47 (this work contains an excellent Bibliography of Arabic sources); S. Fitzgerald, *Muhammadan Law: An Abridgement According to Its Various Schools* (London, 1931).

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اسماء بنت الجهم

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darf.

Gumada I

no. 336 H

TEXT⁴

I

(١) [بسم الله الرح[من الرحيم (٢) [هذا ما اشترت] توسانه ابنت
بسنت بن ؟؟ (٣) من مرقوره بن كيل اشترت منه
[صفقة واحدة] (٤) وعقدا واحدا الصطح الذى فوق عرفة
توسانه ابنت بسنت من الم[نزل] (٥) الذى يشتمله وجنوبى
منه حدود اربعة احد حدود هذا الصطح الذى طباق (٦)
[منزل توسانه] ابنت بسنت القبلى منزل ورثة بمون الصياد وحده
الشرقى (٧) [منزل مرقوره] بن كيل وحده البحرى منزل سنبه
الصياد وحده ال[غربى منزل] (٨) [توسانه اشترت] توسانه
ابنت بسنت من مرقوره بن كيل هذا الصطح (٩) [بحده]
وحدوده ونقضة وبنائه وجميع مرافقه كله[ا] (١٠)
وكل حق هو له بدينارين مثقالين قد قبض مرقوره من توسانه
ابنت [بسنت (١١) هذا ال[ثمن تاما وانيا وبراها من جميعه
لقبضه ذلك منها ابراة قبض واستيفا وسلم (١٢) لها مرقوره
بن كيل هذا الصطح وقبلته واحازته وملكته تملك[ا] قد تجرى
فيه ما تشا و[(١٣) تحكم فيه حكم ارباب الملك فى املاكهم
وتفرقا بعد عقدة هذا البيع [فرق] (١٤) تراض منهم وعلى ذلك
عرف البايع ما باع والمشتري ما اشترى اشترت توسانه (١٥)
ابنت بسنت من مرقوره بن كيل هذا الصطح المذكور الموصوف
فى هذا (١٦) ال[كتاب بجميع حدوده ومرافقه كلها وكل حق

⁴ Square brackets inclose reconstructed text; pointed brackets inclose scribe's omissions; overlining indicates illegibility or uncertain reading; cross-reference to the document is by number and lines, e.g., I, 1-2.

هو له وفيه ومنه بهذا الثمن الذ[ى] (١٧) [و]صفه في صدر هذا الكتاب شهد على اقرار مرقوره بن كيل بجميع ما في هذا الكتاب (١٨) شهودا يعرفونه نفسه واسمه وانه على رضاه بهذا البيع بعد ان قرى عليه (١٩) جميع[ما] في هذا الكتاب فاقر بفهمه ومعرفته بعد ان قرى عليه بالعريه وترجم له (٢٠) محمد فاقر بفهمه ومعرفته وضمن مرقوره بن كيل لتوسانه ابنت بسنت جميع (٢١) [الضمانات] فما كان في هذا الشرى من درك او علقه او تباعة او خصومة فعهد ذلك (٢٢) [وضمانه] ونفاذه وخلاصه والقيام به على مرقوره بن كيل ضمنا ثابتا لازما (٢٣) [بجميع الضمانات] واجبها واوكدها والزمها على سنة المسلمين (٢٤) [وعلى شر] وطه وعلى ذلك تعامللا وعلى ذلك تبايعا شهد على اقرارهم في صحة من (٢٥) [عقوا] لهم وابدانهم وجواز من امورهم طائعين غير مكرهين بلا عله (٢٦) [من مرض] ولا غيره وذلك في شهر جمادى الاول من سنة خمس وثلثين (٢٧) [وثلاثياه] شهد على ذلك شهد بولس بن اسمعيل على جميع ما في هذا (٢٨) [الكتاب] وكتب شهادته بخطه والحمد لله رب العالمين (٢٩) شهد اسمعيل بن صبيح النويرى على اقرار مرقوره بن كيل بجميع ما في هذا الكتاب وذلك (٣٠) في شهر جمادى الاخر من سنة خمس وثلثين وثلاثياه (٣١) [شهد] حسين بن حسان

على اقرار مرقوره بن كيل بما في هذا الكتاب (٣٢) [وكتب
شهادته] بخطه وذلك في شهر جمادى الاخر من سنة خمس
وثلاثين وثلثمائة

(١) صح هذا الوثيقة بحضرة محمد [بن عبد الله] (٢) وذلك
في شهر جمادى الاخر من سنة خمس وثلاثين (٣) وثلثمائة

II

(١) بسم الله الرحمن الرحيم (٢) [هذا] ما اشترى قلحش بن
بقطر من مرقوره بن كيل من سكان ابو الجسوق المعروف ببرش
(٣) [اشترى] منه ومن والدته اقطهون ابن ابو تيدر المنزل الذي
لهم بابو الجسوق برش من كورة (٤) الفيوم بثمان الدنانير من
تلك دينر واحد خوان والسبع الدنانير معسولة صحاحا وازنا
(٥) بالمناقيل الجدد وهو المنزل الذي حده القبلى ينتهى الى
منزل متوس بن دهله وحده (٦) البحرى منزل ورثة بنى قسا
وحده الشرقى منزل فقرى بن شنوده وحده الغربى منزل (٧)
[توسانه] ابنت بسنت اشترى قلحش بن بقطر من مرقوره بن كيل
ومن والدته اقطهون ابن ابو تيدر (٨) [حق]هم بالمنزل
المحدود الموصوف بها دارت عليه الحدود الاربع حده وحدوده

وكل (٩) حق هوله داخلا فيه وخارجا منه بهذا الثمان الدنانير الموصوفة في هذا الكتاب (١٠) وسلم به قلحش بن بقطر الى مرقوره بن كيل هذا الثمن تماما وانيا وابراه من جميع الثمن براءة قبض (١١) وتراضا وافترقا عن اتراض منهما وتشاور على بيع الاسلام وشرطه بلا خيار منهما ولا فسخ (١٢) [هذا] بها تبايعا عليه فما ادرك قلحش بن بقطر من درك او تبعة ؟ او علقه من احد من الناس (١٣) بسبب من الاسباب اوجهة من الوجوه فعلى مرقوره بن كيل ضمان ذلك وعقدته وذلك (١٤) في صفر من سنة ستة وثلاثين وثلثمائة شهد على ذلك على بن ابراهيم الاسواني بجميع ما في هذا الكتاب (١٥) في صفر من سنة ست وثلاثين وثلثمائة شهد على ذلك محمد بن القسي بجميع ما في هذا الكتاب وكتب عنه على بن ابراهيم (١٦) بامره وبحضرته (١٧) شهد محمد بن الحسين بجميع ما في هذا الكتاب وكتب بخطه (١٨) شهد احمد بن الخشم بجميع ما في هذا الكتاب وكتب بخطه (١٩) شهد فساو بن احمد بجميع ما في هذا الكتاب وكتب عنه على بن ابراهيم بامره وحضره (٢٠) شهد احمد بن محمد بجميع ما في هذا الكتاب (٢١) شهد على بن حسين بجميع ما في هذا الكتاب وكتب ~~شهد~~ [ادته بخطه]

III

(١) بسم الله الرحمن الرحيم (٢) هذا ما تصدقة به توسانه
 ابنت بسنت سد قهد على كنيـ[سة دير النفلون (٣) وميكايل
 شلا الدينين الذين في الصحرا وهما يعرفان بالنفلون وشلا من
 كورة (٤) الفيوم العرفة التي طباق قصر دركن ابنت بسنت
 بحدده وحدوده ونقضه (٥) وبنائه وابوابه وجنينته وجميع
 مرافقه وطرقه [وجميع حقوقه كلها وعلوه (٦) وما اشتغلـ[ت
 عليه حدوده واحاطت به جدرانہ صدقة لوجه الله عزوجل
 (٧) بته بتلا لا تريد بذلك شكورا الا من الله وحده لا شريك
 له شهد على اقرار (٨) توسانه ابنت بسنت بجميع ما في هذا
 الكتاب شهودا يعرفونها نفسها واسمها (٩) وانها في صحة من
 عقلها وبدنها وجواز من امرها وهي صدقة مقبوضة محوزة (١٠)
 لهذين الدينين بته بتلا لا رجعة لتوسانه ابنت بسنت في
 هذا الصدقة ولا (١١) مثنوية الا وهذه العرفة وعلوها
 صدقة لوجه الله لهذين الدينين بته (١٢) بتلا شهد على
 اقرار توسانه ابنت بسنت سد قهد في صحة من عقلها
 (١٣) وبدنها وجواز من امرها طائعة طالبة رغبة غير
 مكرهة ولا مجبرة (١٤) بلا علة لها من مرض ولا غيره وذلك
 في شهر جمادى الاول من سنة ست (١٥) وثلاثين وثلثمائة
 شهد على ذلك (١٦) شهد بولس بن اسمعيل على جميع ما

في هذا الكتاب وكتب شهادته بخطه (١٧) شهد يوسف بن
اسماعيل على اقرار توسانه ابنت بسنت بجميع ما في هذا الكتاب
وكتب (١٨) شهادته بخطه وحسبه الله ونعم الوكيل

- (١) صح هذا الوثيقة بحضرة محمد بن عبد الله وذلك في
(٢) شهر شوال من سنة ثلاثين وثلثمائة

I. ORIENTAL INSTITUTE NO. A6965 (SALE OF PROPERTY)

Date.—Jumādā I 335 Hijrah = 28 November–28 December, A.D. 946.

General description.—Fine parchment, somewhat crepelike in texture; 36×23 cm. comprising the entire document; very narrow margins; upper portion and right half much broken and discolored in places by smoke or burning. The ink of the main document is a medium brown of uniform shade and weight, but some of the testimonies are in a darker brown and others in black ink.

Script.—A stiff angular cursive in which some of the letters are very close to small Kufic forms; unpointed, except partially in one or two instances of personal names; closely written both as to word and as to line spacing; some of the testimonies are in a more crowded and cursive hand than that of the main document.

TRANSLATION

(1) In the name of God, the merciful, the compassionate. (2) This is what Tūsānah,⁵ daughter of Bisanti,⁶ son of ? bought . . . (3) . . . from Mar-ḵūrah, son of Kail.⁷ She bought from him by one agreement (4) and one contract⁸ the level land⁹ (terrace?) that is above the fertile tract¹⁰ of Tūsānah, daughter of Bisanti, appertaining to¹¹ the house (5) that comprises it and south of it. (It has) four boundaries: one—the southern—of the boundaries of this level land that adjoins (6) the house of Tūsānah, daughter of Bisanti, is the house of the heirs¹² of Pamōn,¹³ the fisherman; and its eastern boundary

⁵ Though the name appears in all three documents, the *n* alone, and that not always, seems to be pointed; as *t* is a prefix for many feminine Coptic names, it is given the preference here with the suggestion that perhaps we have here the Arabic form of **TCANNA**, which is considered as the Coptic form of Anna by Carl Maria Kaufmann, *Handbuch der altchristlichen Epigraphik* (Freiburg, 1917), 78.

⁶ The well-known name *πασενρε*. The last name is illegible. The text missing in ll. 2 and 3 must refer to the locale of the document, specifying in particular the district of the Fayyūm if not actually mentioning the town of Buljusūḡ-Bursh mentioned in the next document, which see.

⁷ An abbreviation of Mikail (or Michael); cf. Flinders Petrie, *Medum*, pp. 48–50. Both names are very common among the Copts.

⁸ This phrase appears in several sales contracts (cf. Abel, *op. cit.*, pp. 41 f., 52, 57 f.; Moritz, *op. cit.*, Pl. 115–16) and is used to guard against invalidity since in Shāfi'ite law a sale involving more than one transaction is automatically invalidated. Cf. Shīrāzī, *al-Tanbih*, ed. Juynboll (1879), pp. 96–97.

⁹ Arabic dictionaries do not give *s-t-h* though they do give *s-t-h*. We have then an instance of the frequent change of *s* and *ṣ*, natural enough when followed by a *t*, though not limited to that condition; see references to Abel and Moritz cited in the preceding note for the alternation of *s* and *ṣ* in *ṣafaḡah*.

¹⁰ For *ʿarfah* see below, III, 2, where this very one is the subject of a charitable grant.

¹¹ *Min*, partitive, in legal terminology.

¹² Cf. Abel, *op. cit.*, p. 22, ll. 7–9, etc.

¹³ The familiar *παμουν*.

(7) (is) the house of Marḳūrah, son of Kail; and its northern¹⁴ boundary (is) the house of Sanbah,¹⁵ the fisherman; and its western boundary (is) the house (8) of Tūsānah.¹⁶ Tūsānah, daughter of Bisanti, bought from Marḳūrah, son of Kail, this level land (9) within all its boundaries,¹⁷ with its timber beams¹⁸ and its structures, and the sum total of its accessories in their entirety¹⁹ (10) . . . and every right pertaining to it, for two dinars, full weight. Marḳūrah, son of Kail, received from Tūsānah, daughter of Bisanti, (11) this entire sum in full payment, and receipted her for the whole, as having received that (sum) from her, with a receipt for payment received in full; and Marḳūrah (12), son of Kail, conveyed²⁰ this level land to her, and she accepted it, and took possession of it, and took over actual ownership²¹ to do with it as she pleases²² and (13) to control it as proprietors control their property.²³ And

¹⁴ Literally, the sea boundary, commonly so used in Egypt; cf. Saarisalo, *op. cit.*, p. 8, n. 9.

¹⁵ I.e., **CAMBAC**; cf. Karabacek, *Mitt. aus Sammlung der Papyrus Erzherzog Rainer* (Wien, 1887), I, 2.

¹⁶ The text is lost in the parchment, but the locations specified in this and the next documents call for the house of Tūsānah at the same time that the parchment space allows for her first name only. It will be noticed that others in these documents are sometimes indicated by their first names only.

¹⁷ Literally, with its bound and boundaries—a common technical phrase occurring in almost every document of like nature and used to insure definite specification; see also II, 8.

¹⁸ For *naḳḏ*, **نَقْص**, the dictionaries (see Lane) give "ruins," "beams," both in connection with property and in connection with buildings. Dr. Anis K. Frayha informs me that the term is at present in use in connection with buildings and applies chiefly to the timber used and usable in a building.

¹⁹ Unless so specified, the secondary accessories, *marāfiḳ*, belonging to any property, e.g., the loft(?), the entrance passage, and the water closet, are not included in the contract. Though the term *marāfiḳ* is frequently used (e.g., in these and other documents referred to), several other alternative phrases may serve the same purpose, e.g., to buy a house "with every right belonging to it" or "with everything, little or much, that is in it or goes with it"; cf. Shaibānī, *al-Jāmi' al-Ṣaḡhīr* (Būlāḳ, 1884-85), p. 84 (on margin of Abū Yūsuf, *K. al-Kharāj*). See also Iwan Dimitroff's study of this author (Berlin, 1908), pp. 62-63, 86-87, 135-36, for further details. But, as is frequently common in legal documents, alternative phrases are, for the purpose of security, used simultaneously. These Arabic documents are no exception to this practice or to the even more tiresome one of several repetitions of the same phraseology, as the translations readily show.

The break in the text in ll. 9-10 allows for the use of another alternative phrase, but it is risky to attempt to state which of the usual phrases was used.

²⁰ No sale is complete and therefore valid unless delivery or transfer on the part of the seller is followed by definite acceptance and actual possession by the buyer, hence the great care taken to specify these facts. Cf. Shīrāzī, *op. cit.*, p. 93; Macnaghten, *Principles of Hindu and Mohammedan Law* (London, 1885), pp. 198-203; Fitzgerald, *op. cit.*, pp. 181-82.

²¹ Actual ownership is a condition prerequisite for any future legal transaction involving the land, such as selling, bequeathing, or establishing it as a grant; cf. Fitzgerald, *op. cit.*, p. 182, and others. The final *alif* of *tamallukan* is left out.

²² Most of the Arabic phrase is missing in the text, but its reconstruction is gained by comparison with Margoliouth, *op. cit.*, p. 104.

²³ The same Arabic phrase is to be seen in Abel, *op. cit.*, pp. 14, 60; Moritz, *op. cit.*, Pl. 116, l. 12; for variations of or alternatives for the same phrase see Abel, *op. cit.*, pp. 16, 44, 48, 50; Moritz, *op. cit.*, Pl. 115, ll. 10-11.

they separated after contracting this sale (14) with mutual satisfaction.²⁴ And on these terms the seller knows what he sold, and the buyer what he bought. Tūsānah, (15) daughter of Bisanti, bought from Marḳūrah, son of Kail, this level land, mentioned and specified in this (16) deed, within all its boundaries, and with all its accessories and with every right pertaining to it and which is in it and of it,²⁵ for this sum of which (17) the specification is in the first part of this deed. The acknowledgment of Marḳūrah, son of Kail, of all that is in this deed is testified to by (18) witnesses²⁶ who know him in person and by name and that he is satisfied with this sale after the (19) entire content of this deed was read²⁷ to him. He acknowledged his comprehension of it and his cognizance of it after it had been read to him in Arabic and translated for him (by) (20) Muḥammad.²⁸ He acknowledged his comprehension of it and his cognizance of it, and Marḳūrah, son of Kail, guarantees to Tūsānah, daughter of Bisanti, (21) all the guaranties.²⁹ And whatever there may be in this purchase by way of damages, or attachments, or claims, or contentions,³⁰ the security for that (22) and its obligation and its effective refutation and its settlement and its management³¹ rest on Marḳūrah, son of Kail, as a valid and binding (23) obligation for all pledges—the most obligatory, the strongest, and the most binding—according to the Muslim law of sale (24) and according to its stipulation.³² And on these terms these two concluded their sale. Witness is given to their acknowledgment, made in sound (25) mind and body, in control of their affairs, assenting unconstrained without any defect (26) of disease or of anything else. And that in the month of Jumādā I of the year five and thirty (27) and three hundred. Witness is given to these (facts): Būlus, son of Ismaʿīl, gave witness to all that is in this (28)

²⁴ Cf. II, 11, and Moritz, *op. cit.*, Pl. 115, l. 11. Separation in mutual agreement at this point completes and validates the sale, leaving neither party, according to the Mālikite school, any option of recall or repudiation; cf. Zurkānī, *Commentary on the Muwaḥḥā* (Cairo), III, 140. The other schools differ on this right of option; Shīrāzī, *op. cit.*, p. 93; Macnaghten, *op. cit.*, p. 200; Fitzgerald, *op. cit.*, p. 184.

²⁵ For this and similar phrases see II, 9; Abel, *op. cit.*, pp. 16, 21, 47–48; Moritz, *op. cit.*, Pl. 112, l. 3.

²⁶ Note the grammatical construction of *shuhhida . . . shuhūdan*, which occurs also in III, 7–8.

²⁷ For other instances of this cf. Abel, *op. cit.*, pp. 21–22, and Moritz, *op. cit.*, Pl. 115, l. 18.

²⁸ The Arabic text of the phrase is in the active because of the usage of Arabic language.

²⁹ The word is missing in the Arabic text and is supplied from l. 23 of the document.

³⁰ For this and the preceding three terms see Lane, *op. cit.*, with whose help the English equivalents are selected. The terms with one or two others of like meaning belong to the common legal terminology of contracts of sale; cf. Abel, *op. cit.*, pp. 14, 31–32, 43, 52, 59–60; Moritz, *op. cit.*, Pl. 115, ll. 13–14; Pl. 116, l. 11.

³¹ This series of terms, like that of l. 21 above, occurs frequently in most of the documents already cited.

³² More often than not this statement, or something to the same effect, is mentioned in contracts drawn up for Christians, as in these three; see also those cited from Abel and Moritz.

deed and wrote his testimony with his own hand. And praise be to Allah, the Lord of the Worlds. (29) Isma'īl, son of Šabīḥ al-Nuwairī³³ gives witness to the acknowledgment of Marḳūrah, son of Kail, of all that is in this deed, and that (30) in the month of Jumādā II³⁴ of the year five and thirty and three hundred. (31) Ḥussain, son of Hassan, witnessed the acknowledgment of Marḳūrah, son of Kail, of what is in this deed (32) and wrote his testimony with his own hand and that in the month of Jumādā II of the year five and thirty and three hundred.

In the upper left corner of the document appear the following three lines:

(1) This contract (written obligation?) was certified³⁵ in the presence of Muḥammad, son of 'Abd-Allah,³⁶ (2) and that in the month of Jumādā II of the year five and thirty (3) and three hundred.

II. ORIENTAL INSTITUTE NO. A6966 (SALE OF PROPERTY)

Date.—Šafar 336 Hijrah = 22 August–20 September, A.D. 947.

General description.—Fine light parchment; 33×21 cm.; upper right margin much broken, lower right part much shrunk, and so of irregular shape, though this must have taken place before the present document was drawn up. The parchment is a palimpsest, but very few and light traces only are to be seen of the underscript. The same ink—a medium brown—is used for the main document and by the witnesses.

Script.—A small cursive hand with some angularity but, on the whole, closer to the regular *naskhī* hand; freely though not completely pointed; not voweled except for one instance of a *tanwīn* (l. 9); closely

³³ For al-Nuwairah cf. Yākūt, *Dictionary*, IV, 826, where it is described as a *nāḥiyah* in Egypt. *Etat*, ed. De Sacy and published at end of his edition of 'Abd al-Latif's *Relation de l'Égypte* (Paris, 1810), p. 687, mentions a similar place in the province of Baḥnasa, which must be the same as the modern al-Nuwairah; cf. Baedeker, *Egypt and Sudan* (1914), p. 209, and map of the Fayyūm. Salmon, in *BIFAO*, I, 75, lists a *نواره* in the Fayyūm, but I am unable to tell if it has any connection with al-Nuwairah.

³⁴ The actual contract was drawn up in Jumādā I, though these witnesses and the ratification were not secured until Jumādā II. Perhaps the delay was due to inability to secure witnesses readily, since these had to qualify as such; cf. Russell and Suhrawardy, *Muslim Jurisprudence* (London, 1906), pp. 60–61. Official witnesses were kept for this purpose by the state, but these moved about as needed and were, therefore, not always immediately available. Certification and registration are not essential to the validity of the contract; see Macnaghten, *op. cit.*, p. 119; Wilson, *Digest of Anglo-Muhammadan Law* (3d ed.; London, 1908), p. 323.

³⁵ Cf. Abel, *op. cit.*, pp. 32, 59; in Karabacek, *op. cit.*, pp. 164–68, used in sense of "correct."

³⁶ The last name, missing in the Arabic text, is supplied by comparison with III top.

³⁷ Number not used.

written as to words but not crowded in line spacing; most of the signatures are in a crude and unpracticed hand (cf. Moritz, *op. cit.*, Pl. 115, for even more inferior samples).

TRANSLATION

(1) In the name of God, the merciful, the compassionate. (2) This is what Ḳalḥaṣh, son of Boḳtor,³⁸ bought from Markūrah, son of Kail, of the inhabitants of Abū al-Jusūḳ, known as Bursh.³⁹ (3) He bought from him and from his mother, Aḳṭahūn, (daughter) of Ibn Abī Tīdur,⁴⁰ their house in Abū al-Jusūḳ Bursh of the district (*kurah*) of the (4) Fayyūm for eight dinars, of which one dinar is debased⁴¹ and seven dinars unadulterated,⁴² sound (5) full weight by the new mithkals. And it is the house whose southern boundary extends to the house of Matūs, son of Dahlah,⁴³ and its (6) northern boundary

³⁸ Both names fully pointed; a suggestion for Ḳalḥaṣh is the Coptic ⲕⲁⲗⲁⲱⲓⲣⲉ, "the little Syrian," with the last letters dropped; Boḳtor is, of course, Victor.

³⁹ This is the Coptic ⲡⲉⲗⲁⲓⲥⲱⲕ which occurs several times in Coptic documents; Cf. *Corpus papyrorum Raineri*, ed. Krall (Vienna, 1895), II, No. 225, l. 3; Petrie, *op. cit.*, p. 50; Crum, *Coptic Manuscripts from the Fayyūm* (London, 1893), pp. 64, 67, 78-79 (ⲡⲉⲗⲁⲓⲥⲱⲕ). So far as I know, this is the only Arabic document in which it appears as Abū al-Jusūḳ, though as Buljusūḳ it appears in Moritz, *op. cit.*, Pls. 115-16, of the years A.H. 423 and 429, and in all these three instances it is associated with the Arabic Bursh; whether it is possible to identify Bursh with the Arabic Burj and this again with ⲡⲉⲗⲁⲓ with an *r* replacing the *l* (which is a possibility) is a question; cf. Crum, *op. cit.*, p. 67, note under l. 25. If this identification is to be accepted, ⲡⲉⲣ(ⲁ)ⲓⲥⲱⲕ being compounded of two elements, ⲡⲉⲣⲁ, i.e., *b-r-g*, which means "laughing," "happy," "well-being," and ⲓⲥⲱⲕ, standing for the god name Sobek, it could easily be abbreviated to ⲡⲉⲣⲁ, whence later comes برش or برج, though this last is no longer associated with the Buljusūḳ of

later times. In Arabic sources it is first mentioned by al-Nāblusī (643/1245). See Salmon, *op. cit.*, pp. 31 and 70-71, from which we learn that the original Buljusūḳ, located in the rapidly declining region of Bahr al-Tanabtawaih, had fallen into ruins but was rebuilt by the time of al-Nāblusī who describes it as a large and beautiful city in the southern Fayyūm, some four hours' ride on horseback from Madinat al-Fayyūm. The Christian inhabitants must have deserted the place sometime after A.H. 429, the date of the last (now known) Arabic document, and sometime before the time of al-Nāblusī, since he reports only the ruins of a Christian church in contrast with a flourishing mosque serving the new inhabitants, viz., the Banū Ḥātim, a subtribe of the Banū Kilāb. We find it in the eighth/fourteenth century referred to as Baljūḳ in *Etat*, p. 681, after which it seems to have disappeared again in later times, so that its precise identification is impossible, although Wessely, *Denkschriften KAW* (Wien, 1904), L, 12 and 121, and Grenfell, Hunt, and Goodspeed, *Tebtunis papyri* (London, 1907), II, 394, place it between Taṭūn and Talit near the Gharḳ region.

⁴⁰ Literally, Ibn Abū Tīdur's Aḳṭahūn; this same construction occurs again in l. 7 and cannot, therefore, be considered a scribal error. Though impossible as an Arabic construction, it is a common way of indicating this relationship in the Coptic. Aḳṭahūn may be either a variation of Ⲡⲕⲧⲟⲩⲉⲓⲁⲛ or a derivation from the Semitic root of Aḳṭ; cf. Wuthnow, *Die semitischen Menschnennamen in griechischen Inschriften und Papyri des vorderen Orients* (Leipzig, 1930), p. 129.

⁴¹ Literally, "unfaithful" or "treacherous."

⁴² Literally, "faithful," "veracious," as opposed to *khawwān*; cf. Abel, *op. cit.*, p. 7; Margoliouth, *op. cit.*, pp. 24, 26.

⁴³ ⲙⲁⲧⲱⲥ; Matūs is, of course, Matthew.

(is) the house of the heirs of Banī Ḳasā, and its eastern boundary the house of Faḳrī, son of Shinūdah,⁴⁴ and its western boundary the house of (7) Tūsānah, daughter of Bisanti. Ḳalḥaṣh, son of Boḳṭor, bought from Marḳūrah, son of Kail, and from his mother, Aḳṭahūn, (daughter) of Ibn Abī Tīdur, their right (8) in the house delimited and described by the four boundaries that surround it to the limit of all its boundaries,⁴⁵ and every (9) right pertaining to it, entering in it, and issuing from it,⁴⁶ for these eight dinars specified in this deed. (10) And Ḳalḥaṣh, son of Boḳṭor, delivered it to Marḳūrah, son of Kail, this entire sum⁴⁷ in full payment, and he receipted him with a receipt for full payment received. (11) And they were satisfied and parted on terms of mutual satisfaction on their part.⁴⁸ And they consulted⁴⁹ (with each other) in accordance with the Muslim law of sale and its stipulations⁵⁰ without option for either of them and without annulment.⁵¹ (12) These are the terms on which they concluded the sale. And whatsoever should ensue to Ḳalḥaṣh, son of Boḳṭor, by way of damages or claims or attachments⁵² from anyone whatsoever (13) for any reason whatsoever or in any manner whatsoever⁵³—the responsibility for that and security⁵⁴ for it rests on Marḳūrah, son of Kail. And that (14) in Ṣafar of the year six and thirty and three hundred. ‘Alī, son of Ibrahīm, al-Aswānī, gave witness to that, to all that is in this deed (15) in Ṣafar of the year six and thirty and three hundred. Muḥammad, son of al-Ḳasr,⁵⁵ gave witness to that, to all that is in this deed, and ‘Alī, son of Ibra-

⁴⁴ Shinūdah needs no comment; Faḳrī is likely $\pi\kappa\omicron\omicron\rho\epsilon$.

⁴⁵ Cf. note on I. 9.

⁴⁶ Cf. I, 16.

⁴⁷ A case of redundancy here.

⁴⁸ Cf. I, 13–14, for similar terminology. For the form *itrāḍa* cf. Vollers, *Lehrbuch der aegyptio-arabischen Umgangssprache* (Cairo, 1890), p. 71; Spitta-Bey, *Grammatik des arabischen Vulgärdialects von Aegypten* (Leipzig, 1880), pp. 213–35.

⁴⁹ The *alif* of the dual form in *tashawarā* is left out. Though the word as it stands could be read as a noun, the verbal reading is more in keeping with the preceding and following clauses.

⁵⁰ Cf. I, 23–24 and note.

⁵¹ Cf. notes on I. 14.

⁵² Cf. I, 21 and note. There seems to be another word between *tabī‘at* and *‘alḳat* but it is illegible, and the space is too small for an “or” plus another term such as لا حق

(cf. Abel, *op. cit.*, p. 59). A guess on the evidence of the script alone suggests تبعة هـا , but I know of no other instance of this usage in these sale contracts, even if the context were to admit of this reading. There is the more likely possibility that it is a scribal error to be overlooked.

⁵³ For these and similar phrases cf. Abel, *op. cit.*, pp. 21–22, 28, 52, 59; Moritz, *op. cit.*, Pl. 115, l. 14; Pl. 112, l. 15; Pl. 116, l. 13.

⁵⁴ Cf. I, 21–22 and note.

⁵⁵ Cf. Ibn Doreid, *Genealogisch-etymologisches Handbuch*, ed. Wüstenfeld (Göttingen, 1854), p. 302; the last part of the word is not so clear, and there is a possibility of reading the name as al-Ḳasā, as in l. 6 above, though spelled here with final *yā*, as in Ibn Doreid, *op. cit.*, p. 183; or even as al-Ḳāsim in Ṭabarī, *Annals* (Index), and Ibn Doreid, *op. cit.*, pp. 39, 233. The *alif* of al-Ḳāsim is frequently missing in third-century papyri; cf. Grohmann, *op. cit.*, pp. 37–40, and in *Archiv Orientalní*, VII (1935), 456.

hīm, wrote (signed) for him (16) by his order and in his presence. (17) Muḥammad, son of al-Ḥusain, gave witness to all that is in this deed and wrote with his own hand. (18) Aḥmad, son of al-Khashram,⁵⁶ testified to all that is in this deed and wrote with his own hand. (19) Fasau(?),⁵⁷ son of Aḥmad, gave witness to all that is in this deed, and ʿAlī, son of Ibrāhīm, wrote for him by his order and in his presence. (20) Aḥmad, son of Muḥammad, gave witness to all that is in this deed. (21) ʿAlī, son of Ḥusain, gave witness to all that is in this deed and wrote his testimony with his own hand.

III. ORIENTAL INSTITUTE NO. A6967 (Ṣadaḳah OR CHARITABLE GRANT)

Date.—Jumādā I 336 Hijrah = 18 November–18 December, A.D. 947.

General description.—Fine parchment, comparatively well preserved except for two fair-sized lacunae; 25.5×20.5 cm.; very narrow margins. It is a palimpsest, written in both cases on one side only of the parchment. The underscript, now very faint, runs parallel to the length of the parchment and is, therefore, at right angles to the lines of the second writing. Three varieties of ink are to be seen—that of the remains of the underscript; the dark, almost black, ink of the main document; and the very light brown of the signature of the witnesses.

Script.—Small, somewhat angular, cursive hand of mediocre execution but of fair legibility. It is unpointed except for one instance of a *k* (l. 2) and another of a *sh* (l. 3). *Tashdīd* is spelled out in full, e.g., two *l*'s in *ʿallādhīn* of line 3, and two *n*'s of *innaha* in line 9.

Nature of contract.—In addition to the well-known alms tax of the *zakāt*, the Muslim is urged to further individual and private philanthropy: *wakf*, *ṣadaḳah*, and *hibah* are the three main types of such philanthropic and charitable outlets. The first of these is too well known to detain us, and the last is a gift for a consideration, tangible or otherwise, received from one's fellow-men; in the first instance it is essentially of the nature of a sale, and in the second it is the simple gift, both motivated and rewarded by human sentiments alone.⁵⁸ *Ṣadaḳah*, "in the way of God," differs from *wakf* for the same purpose in that

⁵⁶ Cf. Ibn Doreid, *op. cit.*, p. 273.

⁵⁷ The letters of the name seem to be *f-s-a-w*, but it is unusual for an Arabic name to end with an *-a-w*, and I am unable to find any such name as *Fasaw* or *Fashaw* or even *Fasaf* or *Fasak*, taking the last letter for a *f* or *k*. On the other hand, the name from its appearance could be read as *Finaw*, for the Coptic ΠΙΝΑΩ, which again is a peculiar combination with "son of Aḥmad."

⁵⁸ Cf. Baillie, *A Digest of Moohummudan Law* (London, 1864), Part II, pp. 203–9; Wilson, *op. cit.*, pp. 319–37; Fitzgerald, *op. cit.*, pp. 210–15. For Arabic texts on these three subjects see Malik-Zurkāni, *op. cit.*, Shīrāzī, *op. cit.*, and Shaibānī, *op. cit.*; for English translations see Macnaghten, and Russell and Suhrawardy, both cited above.

(a) any unincumbered and commendable object may be given as a *ṣadaqah*, while those that can be given in *wakf* are limited; (b) the donee is free to do as he pleases with the given object, as against the mortmain principle of the *wakf*; and (c) though Christians and Muslims may both give and receive a *ṣadaqah* at any time, there are certain conditions to be met before either, especially the former, can make a *wakf*, since the purpose of the *wakf* must be approved both by Islam and by the religion of the founder. Thus a Christian may make a *wakf* in favor of a hospital or an almshouse, but he cannot make one in favor of a mosque, since that is not approved by his religion; neither can he make a *wakf* in favor of a church, because that is contrary to Islam.⁵⁹ And it is for this last reason that our document here is a *ṣadaqah* and not a *wakf*. On the other hand, *ṣadaqah* differs from *hibah* in that (a) its object is solely to gain merit and favor with God and so is made without any worldly consideration whatsoever; (b) it is (like *wakf*) in some instances, at least, effective on declaration⁶⁰ while *hibah* requires both acceptance and delivery; and (c) it is final and absolutely irrevocable,⁶¹ while *hibah* may be revoked under certain conditions. The reason for this non-revocability is that the object of the *ṣadaqah*, favor with God, has been attained, and so it has become like a gift for which a value has been received.⁶²

TRANSLATION

(1) In the name of God, the merciful, the compassionate. (2) This is what Tūsānah, daughter of Bisanti . . . (?)⁶⁴ gave as a charitable grant to the church of the monastery of Naqlūn⁶⁵ (3) and (to that of) Mikail (of) Shallā⁶⁵—the

⁵⁹ Cf. Fitzgerald, *op. cit.*, pp. 208–9.

⁶⁰ Cf. *ibid.*, pp. 202–3, 217. One such instance is where there is no determined beneficiary, e.g., as a *wakf* for the poor or for the foundation of a mosque. As a general rule, however, where acceptance and delivery are possible, they are both required for the completion of the transaction.

⁶¹ Cf. *ibid.*, p. 202; Wilson, *op. cit.*, p. 336.

⁶² Cf. Baillie, *op. cit.*, p. 224; Wilson, *op. cit.*, p. 336.

⁶³ (Number not used.)

⁶⁴ The two words following the name Bisanti occur again in l. 12 and, though clearly legible as *s-d k-h-d*, are difficult of explanation. They seem to be an attempt on the part of the Arab scribe to give the equivalent of a Coptic titular phrase that was obscure to him. I am led to this suggestion by what Crum writes of a Sahidic papyrus (*Catalogue of Coptic Manuscripts in the British Museum* [London, 1905], pp. 452–53), drawing attention to very frequent but obscure additions after a name and title, “one such being the word ⲩⲁⲗⲁⲥ, ‘lame?’, appended to a name.” Since *kahada* means to “walk with short steps,” perhaps an idea of lameness is implied as Crum suggests, but it is difficult to tell if this means actual physical lameness—it seems to occur too often for that—or if it is to be taken in a figurative sense.

⁶⁵ The location of Naqlūn is dealt with in the historical study growing out of this document; that of Shallā is not definitely known except that it belongs with Buljusūk in the list of rapidly declining towns in the Tanabṭawaih region. See n. 39 on Buljusūk.

two monasteries that are in the desert and are known as al-Naklūn and Shallā in the district (*kurah*) (4) of the Fayyūm: the fertile tract⁶⁶ (of land) that adjoins the residence⁶⁷ of Darkun,⁶⁸ daughter of Bisanti, to the limits of all its boundaries, with its timber beams⁶⁹ (5) and its structure and its gates and its small garden⁷⁰ and all its accessories and its paths and the sum total of its rights in their entirety⁷¹ and its loft(?)⁷² (6) and all that is contained within its boundaries and inclosed within its walls. (This is) an irrevocable charitable grant for the sake of God, to whom be glory and majesty. (7) She desires for this neither reward nor praise except from God alone without any associate.⁷³ The acknowledgment of (8) Tūsānah, daughter of Bisanti, to all the contents of this deed was testified to by witnesses who know her in person and by name (9) and that she is sound in mind and body and in control of her affairs.⁷⁴ And it is a charitable grant seized and possessed⁷⁵ (10) for these two monasteries irrevocably. Tūsānah, daughter of Bisanti, can neither revoke this charitable

⁶⁶ From the further specifications which follow in ll. 4-6 the tract must have been improved and cultivated with at least some buildings standing on it. It is also clear from this and the first document that Tūsānah is not disposing of all her property in that location; for she still has her house and the level land she bought from Markūrah, son of Kall, unless we assume that she has disposed of these in the interval between these two contracts.

⁶⁷ Perhaps the use of the word *kaṣr* and not the humbler and more usual *manzil* is evidence of the general prosperity of the Bisanti family, unless we take *kaṣr* in the sense of a small "keep," which is possible but not likely.

⁶⁸ Written sometimes as Ṭarkhūn (طرخون), both forms derived from the Coptic ΤΑΡΧΩΝ; cf. Krall, *op. cit.*, p. 72, No. 74.

⁶⁹ See I, 9 and note.

⁷⁰ The reading of جَنِينَة is given with some reluctance, mainly for paleographic reasons, since in comparison with the rest of the script there seems to be a *s* or *sh* instead of those three teeth standing for *n-y-n*; for these, together with the *b* and its sister-letters, are usually more marked than the unit of three teeth for *s* or *sh*. From the context the reading "small garden" fits in very well; cf. Abel, *op. cit.*, p. 22. Other possible readings are خَشِيبَة, "wood"; حَسَنَة, "benefits"; or, less probably, جَبَسَة, "gypsum"; حَبَسَة, "prison" or "pond"; and حَبَسَة, "inalienable rights."

⁷¹ Cf. I, 16.

⁷² The *ʿulū*, علو, is the higher or highest part of anything. In this case it seems to stand alone; when associated with a house or any building, it may mean either the raised foundation or the second story of a house or just a simple loft. The term is usually coupled with its antonym (e.g., Abel, *op. cit.*, pp. 16, 22, 48) to mean either specifically the second story and the basement or, where no such things exist, then to mean comprehensively the entire structure (cf. Shaibānī, *op. cit.*, p. 84 [margin]; Shaibānī, ed. Dimitroff, *op. cit.*, pp. 86-87). Is Dimitroff right in concluding that *ʿulū* is the right to future construction, i.e., something of the nature of "air rights," when this is against the general principle that nothing that is not in actual existence can be the subject of sale or alienation? For would not such air rights be tacitly included in one of the usual comprehensive phrases used when an entire property is bought outright, e.g., "with all its rights," "to do with as he pleases," etc.?

⁷³ Cf. Surah VI, 163, for this phrase, which the Muslim scribe irrelevantly adds; see also Abel, *op. cit.*, p. 37, for a similar instance.

⁷⁴ Cf. I, 17-18 and 24-25 and notes.

⁷⁵ It would seem that declaration alone would suffice since the beneficiary is a church (as in the case of a mosque); but not to take any chances, this and the repetitions which follow are added; see introductory comment on the nature of the document.

grant (11) nor make any condition or reservation⁷⁶ (regarding it). For this fertile tract of land and its loft⁷⁷ are an irrevocable charitable grant for the sake of God to these two monasteries. (12) Testimony is given to the acknowledgment of Tūsānah, daughter of Bisanti, . . . (?)⁷⁸ made in sound mind (13) and body and in control of her affairs, of her own volition, seeking, and desire, neither constrained nor forced, (14) without any defect of disease or of anything else.⁷⁹ And that in the month of Jumādā I of the year six (15) and thirty and three hundred. Witness is given to these (facts): (16) Būlus, son of Ismaʿīl, gave witness to all that is in this document and wrote his testimony with his own hand. (17) Yūsuf, son of Ismaʿīl, gave witness to the acknowledgment of Tūsānah, daughter of Bisanti, of all that is in this deed and wrote (18) his testimony with his own hand. God is his sufficiency, and the best of guardians is he.

Two lines appear in the upper left corner:

"(1) This (written) document was certified in the presence of Muḥammad, son of ʿAbd-Allah, and that in the (2) month of Shawwāl⁸⁰ of the year (six and?)⁸¹ thirty and three hundred."⁸²

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⁷⁶ Cf. Abel, *op. cit.*, p. 60, where the term *mathnawīyyah*, مثنوية, is preceded by *taʿawwul*, تاول, a term of similar meaning which our scribe here seems to have omitted by mistake at the end of l. 10 where, though there is room for it, we find no traces of it. If we take the omission to be intentional, then we must credit the scribe with the error of repetition for the phrase *wa lā*, ولا. This precaution is taken since all but a few specified conditions or reservations render these contracts illegal (see n. 24 on I, 14).

⁷⁷ Note that the pronominal ending here is feminine, although in l. 5 it is masculine.

⁷⁸ Cf. l. 2 of this document and note. ⁷⁹ For these series of terms cf. I, 25-26.

⁸⁰ Shawwāl, A.H., 336, falls between April 14-May 13 of A.D. 948, i.e., five months after the initial drafting of the document (see n. 34 on I, 30).

⁸¹ The year date given is thirty and three hundred and so raises the question as to whether this certification refers to the present document or to that of the underscript, which was written in the year 330. Except for this similarity of date, everything else is in favor of its inclusion with the present document: it is written in the same light ink as that used by the witnesses and across clear traces of the underscript, to which, therefore, it could not belong. Thus we are left free to accept a scribal error in the omission of the word "six" in the date group. The earlier document of the underscript consists of ten lines written at right angles to the present one and is legible now only in isolated words—*kurah*, "acknowledgment," "receipt," "all," and "sum total of"—which, together with the date, indicate that the document was a deed of sale executed some six years previous to the present one.

⁸² Professor Grohmann's *Arabic Papyri in the Egyptian Library*, Vol. I (Cairo, 1934), reached us after this manuscript had gone to press. The wealth of documents at his disposal, and the full and scholarly way in which he has treated them, make his publication, like the rest of his work on Arabic papyri, indispensable to the Arabist. I regret that it did not reach us earlier, for in several instances it would have made my path much easier.

Professor Grohmann on his p. 152 has thrown some light on the formula سفلة وعلوه which helps to clear the question raised in connection with the word علوه in III, 5. On the other hand, I trust that the fact that the sh of Bursh is clearly pointed with three dots in II, 2-3, together with the solution suggested in n. 39, will help to clear the question he has raised (p. 151) regarding the name Buljusūk-Bursh.

[To be continued]