

# BABYLONIAN LAWSUITS AND JUDGMENTS

TRANSLATED BY DR. OPPERT

HAVING worked for more than five-and-twenty years at the Babylonian and Assyrian deeds of contract and legal decisions, and having explained the documents relating to these subjects which have been discovered in Mesopotamia, I am now able to state that the meaning of these difficult texts is at length fairly well understood by us. The simplest explanation is that which is the most difficult to obtain, and I have no doubt that the translations and interpretations I offer will appear to many scholars so easy and conclusive as to make them assume that any one might have discovered them at the outset. Fortunately, however, not only the translations of other scholars, but my own imperfect ones as well, have been published, and will thus convince younger students of the immense difficulty there is in arriving at results which seem so evident.

The first texts which I have selected contain certain contracts and legal decisions relating indubitably to captive Jews who had been carried to Babylon after

the destruction of Jerusalem. One of the most interesting of them is a lawsuit commenced by a Jewish slave named Barachiel in order to recover his original status. A copy of the text has been published by Father Strassmaier in the *Transactions of the Oriental Congress* at Leyden, No. 42.

My translation of it, which will appear in the *Transactions of the Oriental Congress* at Vienna, has been amended in one or two points. The translations offered by Dr. V. Revillout and a young Assyriologist, Dr. Peiser, are very imperfect, Dr. Revillout having entirely misunderstood the nature of the suit referred to, and having fallen into several grammatical errors, while Dr. Peiser's rendering is not less unacceptable.

The case was as follows:—Barachiel, who bears the same name as the father of Elihu in the Book of Job (xxxii. 2, 6), had been the property of a wealthy person named Akhi-nuri, who had sold him to a widow of the name of Gagâ, about 570 B.C. He remained in the house of this lady as a slave, with the power of liberating himself by paying a sum equal to his *peculium*, or private property which he had been allowed to acquire, like a slave in ancient Rome; but it seems that he was never fortunate enough to be able to afford the sum of money required. He remained with Gagâ twenty-one years, and was considered the *res* or property of the house, and as such was handed over in pledge, was restored, and finally became the dowry of Nubtâ ("Bee"), the daughter of Gagâ. Nubtâ gave him to her son and husband in exchange for a house

and some slaves. After the death of the two ladies he was sold to the wealthy publican Itti-Marduk-baladh, from whose house he escaped twice. Taken the second time, he instituted an action in order that he might be recognised as a free-born citizen, of the family of Bel-rimanni; and to prove that he was of noble origin he pretended that he had performed the matrimonial solemnities at the marriage of his master's daughter Qudasu with a certain Samas-mudammiq.<sup>1</sup> Such a performance, doubtless, implied that the officiating priest was of free birth, and that no slave or freedman was qualified to take part in it. He declared, "I am a *mar-banû*," or "descendant of a *banû*," literally a "generator," or "ancestor," one of those semi-mythical heroes who gave their names to the noble families of Babylon.<sup>2</sup> "I belong," he went on to say, "to the family of Bel-rimanni," who in other texts is called a high-priest. The case was brought before a court of justice, and the royal judges asked Barachiel to prove that he was of free birth. This *actio præjudicialis de ingenuitate* was urged for and against, and eventually Barachiel was obliged to retract his former statements. He was unable to rebut the evidence alleged against him, and though it is probable that the two married persons whose "hands he had joined" were dead, other witnesses came forward who proved that he

<sup>1</sup> The father of Akhi-nuri was Nabu-nadin-akh ("Nebo gives a brother"), and the father of the son-in-law bears the same name. But it is by no means certain that the uncle married his niece, since the two persons may have been different.

<sup>2</sup> It would be a useful work to collect the names of all the *banû* or ancestors, men of noble birth, like Egibi, Nur-Sin, and others.

was a slave with the power of purchasing his freedom.

The exact date at which the judgment was delivered is not quite certain, but it must be later than the seventh year of Nabonidus, when the father Itti-Marduk-baladh was still alive.

I will now proceed to make some further remarks on the details of the case, as it is very interesting, and offers some useful hints as to the legal procedure of the Babylonians.

The name of Bariki-ili or Barachiel is evidently that of a Jew. He is called "a slave of ransom," that is to say, not a slave who has already purchased his freedom, since in that case he would have been free, but a slave who was allowed by special laws to employ his private fortune in the work of liberating himself. He professes to have been the *avil tasilisu* or "joiner" of the hands of bride and bridegroom at a wedding which must have taken place before the thirty-fifth year of Nebuchadnezzar's reign, when he still belonged to the house of Akhi-nuri, "the seller of the slave," as he is called at the end of the text.

After the declaration of the slave, the document is comparatively easy to understand. The judges, after perusing all the evidence, do not find any proofs that Barachiel was a man of free birth, and accordingly say to him: "Prove to us that you are the descendant of a (noble) ancestor." Thereupon Barachiel confesses that he is not free-born, but has twice run away from the house of his master; as, however, the act was seen

by many people he was afraid, and said, "I am the son of a (noble) ancestor." "But I am not free-born," he continues, and then gives an account of the events of his life.

The words *mar-banut* in line 16 signify "condition of being a free-born citizen," and not "letter of clientship," as Dr. Peiser supposes. The expression "letter of citizenship" (*dippi mar-banut*) occurs several times, and signifies the warrant given by a master to his emancipated slave. "Non-citizenship" was the fourth fact guaranteed by the seller of a slave to the purchaser, the other three being: (1) that the slave should not rebel or run away; if he returned to his former master he was to be sent back; (2) that no claim should lie against the validity of the sale on account of technical or other errors; and (3) that the purchaser should be secured against any claim made upon the services of a slave by a royal officer.

Barachiel adds that after the death of the two ladies Gagâ and Nubtâ, he was sold for money to Itti-Marduk-baladh, of the Egibi family, thus becoming a *servus redimendus argento*, a slave who could be ransomed with money, and that he awaits the sentence of the court.

The judges decided that Barachiel should be restored to his original status, and added that it was in the *uzuz* (or *usus*) of the two married persons Samas-mudammiq and Qudasu that the judgment was pronounced. This may signify "absence," the two having died during the interval of more than

twenty years which had elapsed since the marriage. It is probable that Barachiel had invented the story of his taking part in the wedding because he thought that its falsity could not be detected. If, however, the word is equivalent to the expression *ina du-su*, the texts from Sippara would go to show that it must mean "in the presence of."

It may be remarked that not a word is said about "a deed of slavery," which was certainly not given to a slave in order to prove his own servile condition as a *vindex libertatis*, as Dr. Revillout seems to imagine.

The only penalty imposed upon the slave is his restoration to his ancient condition; penalties were decreed against those who wished to annul a contract, not against those who pretended to be free citizens. In this respect the Babylonian law was more humane than the Roman. This is the more surprising, since it cannot be denied that severe penalties were at times inflicted. The Micheaux-stones, for example, inscribed in the twelfth century before our era, threaten the transgressors of a contract and those who annul their covenants with the curses of the gods, each of whom would inflict a special punishment. The old Jew escaped with the failure of his attempt to recover his undeserved loss of liberty; perhaps the court took into serious consideration his fidelity to his former master, who had esteemed him to be worth not only a house but other slaves as well.

TRANSLATION OF A BABYLONIAN LAWSUIT  
RELATING TO A JEW

1. Barachiel is a slave of ransom<sup>1</sup> belonging to Gagâ the daughter of
2. . . . . whom in the 35th year of Nebuchadnezzar, king of BABYLON,<sup>2</sup>
3. [from Akhi-]nuri, the son of Nabu-nadin-akh, for the third of a mina and 8 shekels
4. she had bought. Recently<sup>3</sup> he has instituted an action, saying thus: I am the son of a (noble) ancestor, of the family<sup>4</sup> of Bel-rimanni,
5. who have joined the hands (in matrimony) of Samas-mudammîq the son of Nabu-nadin-akh
6. and the woman Qusadu the daughter of Akhi-nuri, even I. In the presence of
7. the high-priest,<sup>5</sup> the nobles and the judges of Nabonidus king of BABYLON
8. they pleaded the case and listened to their arguments in regard to the obligation of servitude
9. of Barachiel. From the 35th year of Nebuchadnezzar king of BABYLON
10. to the 7th year of Nabonidus king of BABYLON,<sup>6</sup> he had been sold for money, had been put
11. in pledge, (and) as the dowry of Nubtâ the daughter
12. of Gagâ had been given. Afterwards Nubtâ had alienated him by a sealed contract ;<sup>7</sup>

<sup>1</sup> For the meaning of this expression see above, p. 158.

<sup>2</sup> B.C. 570.

<sup>3</sup> *Ana eninni*, not a proper name as Dr. Revillout supposes !

<sup>4</sup> Read *lu sir*. Several distinguished persons were called Bel-rimanni, among others a priest of the Sun-god.

<sup>5</sup> *Sangu*.

<sup>6</sup> B.C. 549.

<sup>7</sup> The text does not seem to me to have been correctly copied here.

# END OF SAMPLE TEXT



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