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 Z. 15 *eam* (sc. multitudinem) rebaptizationis sauciaret machera
 Homoioteleuton Antithese Homoiotel. Homoiotel. korrespondierende
 Metaphern
 Z. 16 *stolarum baptismatis (taetrae) nigredinis turparet iniuvie*
 und dazwischen Antithese
 Z. 17 *vino carnis suae purificans*
 korresp. Chiasmus
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 und Homoioteleuton fecerat dealbatam
prelo exprimens crucis
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 p. 141 n. 1 transfer note to p. 142, n. 1
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ON *ITUM AMBITUM DATUM*: A FORMULA OF *IUS SEPULCHRI*

A n n e H e l t t u l a

Among the recently published inscriptions of the pagan Roman cemetery of the Autoparco Vaticano¹ we have the following epitaph (nr. 46), inscribed with an unsteady hand on a marble slab attached to the back wall of a tomb with several niches for urns: *In f. p. VI in a. p. VII / D.M. / T. Malius Antigonus / filis suis fecit et sibi itu ambitu datu Apuleiae Atti/cillae et Apuleio Valenti / itu ambitu dat(u) a² Malio / Antigono Euthycu Caesaris / nostri servos et Claudiae / Epiteusi.*³ In this inscription the formula *itu ambitu datu*⁴ appears twice, an important addition to our material concerning the concept of *itus ambitus* in Roman sepulchral law, and no less important from the syntactical point of view.⁴

The question of *itus ambitus* has been discussed by scholars, but there seems to be no unanimity on the exact content of the notion.⁵ This is probably at

¹ Le iscrizioni della necropoli dell'Autoparco Vaticano, edited by P. Castrén, A. Helttula, R. Pahtakari, R. Pitkäranta, M. Steinby, V. Väänänen and V. Väätäjä, AIRF VI, Rome 1973 (= INAV).

² To be interpreted as a preposition rather than as an abbreviation of the praenomen *Aulus* (cf. parallel examples infra, p. 00).

³ Of the uncertainty in orthography and forms (*Eutychu; servos*), cf. the commentary of V. Väänänen, 135–136.

⁴ The material has been collected by G. N. Olcott, *Thesaurus Linguae Latinae Epigraphicae*, Rome 1904–, s.v. *aditus* (I, 97) and especially *ambitus* (I, 276–277), to which I have been able to make some minor additions; see also F. Wamser, *De iure sepulchrali Romanorum quid tituli doceant*, Diss. Giessen 1887, p. 16–19. — The formula can contain various elements, the form *itus ambitus* being the most common (more than 50 % of the cases). Fairly often we also find *itus* (seldom *iter*) *aditus ambitus; itus actus aditus ambitus* is less common. To these can be added almost all the possible combinations of the parts mentioned (exceptionally also *exitus, introitus, reditus, transitus*). In some cases (*aquae*) *haustus* is added, and in others there is a further specification of rights (e.g. CIL VI 10247 *coronare vesci mortuum mortuas mortuosve ossa inferre*, etc.). When speaking of the formula generally I use the form *itus ambitus*.

⁵ The question of *ius sepulchri* in general and of *itus ambitus* in particular have recently been discussed by F. De Visscher, *Le droit des tombeaux romains*, Milan 1963 (with further bibliography). See also E. Albertario, *Studi di diritto romano II*, Milan 1941; C. Fadda, *L'azione popolare. Studio di diritto romano e attuale I*, Turin 1894, and *Le res religiosae nel diritto romano* (Memoria letta alla R. Accademia di Scienze Morali e Politiche della Società Reale di Napoli), Naples 1899.

least partly due to the scarcity of evidence: my material consists of less than 150 examples, most of them from Rome,¹ which is not much considering the huge number of epitaphs preserved. This material, in addition to being scarce, is also very heterogeneous and gives room for speculation. I do not intend to enter the labyrinths of Roman law, in which I am totally incompetent; mine is rather a sociological approach, i.e. I intend to see from the inscriptions themselves what *itus ambitus* might have meant for those who had it inscribed in their epitaphs.

The *ius sepulchri*, in its essential meaning, contained the right to be buried in the tomb (*sepeliri*); in some cases, also the right to bury another person there (*mortuum inferre*). But there were many secondary rights and duties brought about by practical need like the upkeep of the tomb, or by the nature of the tomb as a *locus religiosus* (sacrifices), which demanded free access to the tomb, i.e. *itus ambitus*. Originally it evidently meant the right to use the road leading to the tomb; but we cannot tell whether it was an innate part of *ius sepulchri* or a matter of convention. The question arose, for instance, when the tomb was situated in *fundo alieno*, i.e. when the owner of the fundus had sold the property but reserved for himself the site of the tomb (cf. Pomp. dig. 47,12,5 *Utatur eo rure, ut dominis fundorum, in quibus sepulchra fecerint, etiam post venditos fundos adeundorum sepulchrorum sit ius. legibus namque praediorum vendendorum cavetur, ut ad sepulchra, quae in fundis sunt, itus aditus ambitus funeri faciundo sit*) or when the site of the tomb itself had been bought or received as a donation (e.g. CIL XIV 583 *D. M. / M. Antonius Filumenus / monimentum novom comparavit sibi quod est / intra monimentum / Caesenni Alexandri / cum itum aditum / actum...*).² In several cases, however, the formula seems to be connected more closely with the tomb itself than with the property outside it. As R. Pitkäranta observes in his commentary to the Autoparco inscriptions,³ it is generally explained to mean access to the tomb, the right to come there to perform the rites and ceremonies due (sacrifices, funerals; e.g. CIL VI 12133 *L. Apisius C.f. Scaptia Capitolinus / ex testamento fieri iussit monum. / arbitratum heredum meorum sibi et suis* (followed by the names) ... *in hoc monumento itus aditus ambitus libertis libertabusque meis omnib. / pateat, heres clavem dato ad sacrificia facienda quotiens quomque opus*

¹ 95 cases; 27 from Latium Vetus; single cases from other parts of Italy and hardly any outside the peninsula.

² Other examples: CIL V 3849; XIV 4768 = Thyl. A 5 (Thyl. refers to H. Thylander, *Inscriptions du Port d'Ostie*, Lund 1952).

³ P. 121.

erit).¹ Thus, the meaning of INAV 46 should be clear enough: T. Malius Antigonus has erected the tomb for himself and his sons; access to the tomb is granted to Apuleia Atticilla and Apuleius Valens; further, Malius Antigonus has given access to Euthycus, imperial slave, and Claudia Epiteusis. But did this "access" only give the two couples the right to visit the tomb, or did it bestow on them a burial place there? The material on *itus ambitus* yields no single answer; there are, however, numerous examples that clearly support this second interpretation.

In examples where *itus ambitus* is proclaimed generally, i.e. without any specification of person, we can see quite evidently the basic meaning of free road (e.g. CIL XIV *In agr. p. XXXV. / Excipitur huic / sepulcro M. Tulli Sperati / aditus ambitus funeris / sacrificio faciundi / causa*). This may also be traced in the many formal examples, in which the formula, often without any syntactical connection at all with the rest of the text, stands at the end together with other sepulchral phrases (e.g. Eranos 25, 1927, 91 D. M. / *P. Cornelius Gratus / et Cornelia Hermais / fecerun / Cornliae / Marcelale / filiae / karissime q. v. a. VI / m. V d. V et libertis / libertabusq. posterisq. / eorum h. m. d. m. a. / itu ambitu*). It is true that these cases are extremely vague, and it is very likely that the exact meaning of the formula has not had much attention paid to it: the feeling was just that it had something to do with an epitaph. But consider for instance CIL VI 10238: (a) *T. Flavius Aug. lib. / Alcon et Antonia / Lyde monumentu / fecerunt sibi et suis / libertis libertabusq. / communibus posterisque eorum / cum aedificio / Escitiano cus/todiae causa mo/numenti. itum / actum aditum / (b) ambitum / ita ut vivi / possedimus / posterique nostri po/ssideant / vivi vivis dedimus / inscribi / iussimus / (c) Quod si quis / eorum par/tem iuris / sui vendide/rit aut ex consesu uni/versorum / ea pecunia in / aerarium po/puli Romani in/ferri iubemus ...* I hold it clear that the *ius* includes the concept of *itus actus aditus ambitus*, expressed with too much emphasis to signify the mere right of entry. Compare the following example, where the formula, it seems, has been used as a *terminus technicus* after a more colloquial expression (CIL VI 20677): *D. [M.] / Iulia Severa / Primae filiae / suae bene mer/enti titulum / posuit a cloge (=hac lege) / ut liceat me ibi / poni itu ambitu / liceat me habe/re possedere.*

This significance is even more apparent in cases where *itus ambitus* is given to a person or persons named, or definitely denied to a particular person. Fairly numerous are the examples in which — as in INAV 46 — a person has made the

¹ Other examples which refer to the performance of sacrifices: CIL III 9315; VI 3626, 10231, 13823, 14614, 22819, 26419, 26422, 34887^a, 38241^a; X 6607.

tomb for the members of his family, and further given *itus ambitus* to others apparently not related to him. E.g. CIL VI 8489 *D. M. / Domitia Olympias se / viva fec. sibi et Notho / Caes. n. ser. et Do. Zosimiano / et suis posteq. eorum. / Domitia Olympias me viva / dedi donavi itu ambitu Heuodo / servo publico stationis aquaru / posteris[que] eorum et Gaviae.*¹ Sometimes a donee has, in his turn, given *itus ambitus* to somebody else: CIL VI 26229 *D. M. / A. Septicius Hermogenes / Hostiliae Secundae locum terrae intransibus / parte laeva l. p. III l. p. VII / donavit cui itum ambitum / dedit tunc Hostilia Secunda Hostiliae Charitoni filiae suae fecit / et sibi et Hostilio Charitoni et libertis suis post. eor.*² There can hardly be any doubt of the significance of the formula in this case, nor in the following one, where an undeserving freedman is denied a place in the family grave (CIL VI 11027): *M. Aemilius Artema / fecit / M. Licinio Successo fratri / bene merenti et / Caeciliae Modestae coniugi / suae et sibi et suis libertis / libertabusq. posterisq. eorum / excepto Hermete lib. quem veto / propter delicta sua aditum ambitum ne / ullum accessum habeat in hoc monumento.*³

In numerous cases the right of *itus ambitus* is linked with the *locus sepulturae*; e.g. NSc. 1919 p. 227 n. 4 *D. M. / Cn. Lepidius Ianuarius et Annia Saturnina fecerunt sibi et / L. Munatio Epicteto filio et liberis et / libertis libertabusque posterisque eorum / ... / Idem Munatius Epictetus Iuliae Marcellinae coniugi suae / locum sepulturae et itum aditum posterisque eius concessit.*⁴ These cases, in my opinion, show the subtle but fundamental difference between the burial place as such, as a concrete – also vendible – property (*locus purus*), and the *locus religiosus* which it became when the *ossa* or *cineres* were put in there: *locus* was the place, *itus ambitus* the right to use it for its proper purpose. As a conclusion, one more example which speaks for itself (the inscription is very long; I only quote the essentials): CIL VI 14672 ... *M. Antonius Encolpus fecit sibi et Antonio Athenaeo / liberto suo karissimo et libertis libertabusque eorum / et posteris excepto M. Antonio Athenione quem veto in eo monimento aditum habere neque iter ambitum / introitum ullum in eo habere neque sepulturae causa / reliquias eius posterorumque eius inferri ... A. Laelius Apelles in hoc monumento aditum ambitum iubeo habere. iusso*

¹ Note the repetition of the name of the donor. – Other examples: CIL VI 2345, 9408, 14672, 17651, 28757, 38557; XIV 864; Thyl. A 196.

² Similarly NSc. 1919, p. 227.

³ Other denials: CIL VI 9408, 14672, 19562; X 2649; XIV 1271; Thyl. A 208.

⁴ Similarly e.g. CIL VI 11771, 15473, 15962, 21161, 21699, 38557; XIV 1650, 3323; Thyl. A 117, 257, 277.

Antoni Encolpi / Olo Lelio Apelleti uno sarchofago itum ambitum habere devevet amico optimo.

I have wanted to show that *itus ambitus* was by no means a simple notion. The free use of road, the upkeep of a monument, ceremonial and burial rights are not easily connected under the same title, although the natural development from one concept to another might well be understood. Since we deal with epitaphs, the question of chronology is not an easy one; but the onomastic criteria, among others, lead me to admit — with caution — the coexistence of the different meanings of the formula during the first two centuries of the empire. However, it seems logical to consider as original the exterior, impersonal notion of free road, the right not given to anyone in particular, but linked with the monument itself (CIL VI 1904 ... *hoc monumentum itum ambitum habet ... it. amb. per agro habet.*). The development leads to the confining of *itus ambitus* more closely inside the monument, and it is not surprising that when this right becomes more substantial in content, it should be reserved to definite persons. As we have seen, it is not always possible to separate with precision the forms of access brought along by *itus ambitus* — the surprising thing being, of course, that there should exist different meanings of a formula with a relatively limited use. But I find it very hard to believe that the limited space of a sepulchral stone would be used to enumerate people who were merely allowed to visit the tomb on special occasions; it is to be noted that when *itus ambitus* unquestionably refers to ceremonial rights, no names are given. There are cases in which the formula might have been vaguely felt to be a *terminus technicus* for something essential within the concept of *ius sepulchri*. In some cases the exact meaning might have become confused, especially when used by simple people not familiar with the finesses of Roman law. Yet in the majority of cases it is used with such precision that this explanation does not hold, and with such emphasis that it must have conveyed an important piece of information.

If we study the material of *itus ambitus* from the syntactical point of view we notice that in most cases the words are found in the accusative form, the nominative being rather an exception.¹ In some cases the accusative is fully justified (in objects of active verbs like *habere, possidere; concedere, dare, donare, permittere, praestare*), in other cases it is not (unconstrued, or standing for the nominative with the passive forms of the above mentioned verbs, etc.). In these exceptional accusatives, which he calls "deklarativ", Szantyr is inclined to see a "Rezeptakkusativ" common in professional jargon (Fachsprache), i.e. a real

¹ The observation made by A. Szantyr in *Museum Helveticum* 23 (1966), 208–212 ('Beiträge aus der Thesaurusarbeit: *itum aditum ambitum*').

accusative use of the case;¹ later, however, he also hints at the possible weakening of the accusative value at least in some instances.

A fairly common formula is one with the passive *debetur*; e.g. CIL VI 10250 *huic monimento iter aditus ambitus debetur* (8520 *his monument(i) itus ambitus praestari debetur*). In some cases we find an accusative instead of a nominative: CIL VI 21161 *itum ambit(um) debetur (bis)*; 34124 *hui monimento itum ambitum debetur*; XIV 4832 *itu ambitu ... hui monimento debetur*. We can easily supplement an infinitive like *habere* (or *praestare*) and restore in this way the value of the accusatives as objects. But it is interesting to note that the passive forms of *praestare* are – with the exception of CIL VI 8520 quoted above – always used with an accusative: CIL VI 17653 *ad has haediculas et ollas itum aditum ambit(um) et haustum praestari debetur*; 19949 *itum aditum ambitum ... ut praestentur*; 29907 *... aquam uti de taberna et itum ambitum uti prestetur eis*. These are clearly objects attached to verbs in impersonal passive.² Somewhat surprising at first sight is the use of the accusative with *licet*: CIL VI 13823 *itum aditum ambitum³ sacrificique faciundi causa proximis eius recte liceat*; 26422 *aditum ambitum sacrificandi pascundive causa liceat mihi meisq.*; IX 3437 *sicut liciat itum aditum ambitum mihi posterisque meis*. But these accusatives too are unquestionable objects. The "normal" phrase contains *habere* or *possidere* (CIL VI 20677 *itu ambitu liceat me habere possidere*; 20967 *itu ambitu possidere liceat lib. libq. post. suis*; XIV 1473 *ita ut liceat ei itum aditum ambitum ... habere*). The remaining cases contain other infinitives, often with respective objects, and there should be nothing surprising in the expression of *itus ambitus* in an object form – although seemingly without any predicate of its own – as one of the rights given; e.g. CIL VI 10247 *ad id monumentum itum aditum ambitum adque haustum coronare vesci mortuum mortuas mortuosve ossa inferre uti liceat*; similarly 9404, 10231, 10562, 29480, 38241a.

This prevailing sense of "objectness" is the common denominator which explains the general use of the accusative in phrases containing *itus ambitus*. It is not a subject notion, but something given to someone or possessed by him: it is logically an object, whatever its strictly grammatical position might be, and in epitaphs, which are often written by people not well acquainted with Latin grammar – or, which is perhaps even more worthy of consideration, where lack of space demands a concise form of expression and where the important thing is

¹ P. 210–211.

² Surprisingly with *oportet*: CIL III 9315 *iter ambitum actum aditum ... quibus esse oportet oportebit* (contamination of the two ways of expressing possession).

³ CIL adds *habere*.

the information given – it is only natural that the logical object should assume the form of the object, the accusative. The same interpretation can be applied to an even greater number of unconstrued accusatives like CIL VI 8667 *Dis Manibus / Lais Domitiae Aug. serva fecit / Fortunato disp. hortorum Atti/cianorum et sibi posterisque / suorum itum actum adit(um) ambitum*. As Szantyr observes,¹ an accusative like this acts as a kind of catchword: it conveys the message briefly where brevity is the essential requirement. Although it does not quite correspond to the use of the "Rezeptakkusativ" according to the examples placed under this title e.g. by J. Svennung,² the psycholinguistic situation is similar: a prevailing sense of objectness and a demand for brevity, often with a possibility of an ellipse. The proper content of the case is still present, in my opinion, also in the most formal examples in which the formula has no apparent syntactical connection with the rest of the phrase.

The material studied by Szantyr does not, however, explain the constructions found in INAV 46. Evidently we have to see in *itu ambitu datu* the loss of a final *-m* and read *itum ambitum datum*.³ But should we supplement *est* and consider the forms as nominatives? Although rare, there are cases which seem to support this interpretation: CIL VI 26355d ... *ad hoc / sepulchrum itum / ambitum omni tem/pori permissum / est ab Q. Sulpicio / Epitynchano*. But second declension neutral variants of fourth declension verbal nouns are contrary to Latin word-formation, and this explanation is too mechanical to be satisfactory.⁴ In my opinion, the forms are accusatives; further, I maintain that they are examples of the so-called accusative absolute, which does not seem to be rare in inscriptions even in a relatively early period.⁵ A parallel example is provided by CIL VI 20973 *D. M. / D. Laberio Manliano / vix. ann. XIIX mens. VIII / dieb. XXVII / D. Laberius Epaphro[ditus] et Manl[ia] / Prima parent.*

1 P. 211.

2 Untersuchungen zu Palladius, passim, particularly 185sq.

3 Cf. V. Väänänen, *Le iscrizioni dell'Autoparco*, 136. – Another interesting interpretation was suggested to me by P. Castrén: to read *itu ambitu datu(m)* (sc. *sepulchrum*), where *itu ambitu* should be interpreted as an ablative of respect. There are not, however, any parallels to this kind of expression: it is always *itus ambitus* which is given. Besides, the idea of the tomb being given for some specific purpose like *itus ambitus* over-emphasizes, in my opinion, this last concept and reduces the principal notion, i.e. the tomb, to an instrument.

4 Szantyr, 208 and n. 4. – The nominative theory is supported by W. Konjetzny, *De idiotismis syntacticis in titulis urbanis conspicuis*, ALL 15 (1908), 297–351, and E. Diehl, *De m finali epigraphica*, Leipzig 1899, 199sq.

5 Cf. my article *Some new evidence on the Late Latin accusative absolute*, *Classica et Mediaevalia: Dissertationes IX* (1973), 344–345.

fil. pien [---] / datu itum ambitum a [---]. Very illustrative is CIL XIV 4768 = Thyl. A 5 (with two absolute constructions side by side): *D. M. / P. Aelius Maximus / fecit sibi et Veianiae / Iotape et libertis liberta/busq. posterisq. eorum, item / L. Genuncio Aepaphrodito et / Mariae Deutere et posterisq. / eorum cubiculum hypogeum eis / donatum concessoque itu ambitu / transitum per porticum aeis a / P. Aelio Maximo.* The structure of this last example is similar to INAV 46: the subject of the main clause is at the same time the logical subject of the absolute construction and repeated in it in the form of an agent.¹ In other words, the construction is active in spite of its passive form.² The agent is wholly superfluous; but evidently the passiveness of form has still dominated the mind of the writer and led him to add it, although it does not give any new information.

The same structure is shown by Thyl. A 117 (in which, however, the subject in the nominative is not expressed): *Flaviae Lamy/rae que vix. an. / XXV, locum concessum ab / C. Iulio Spiclo / itu ambitu introi/tu habere permisit.* If we transform the construction into a "normal" accusative absolute it would sound as follows: *C. Iulius Spichus locum concessum itum ambitum introitum habere permisit.* This reveals the essential nature of the construction. Latin had no active past participle to correspond, for instance, to the useful aorist participle in Greek. This defect was, in fact, compensated by the use of an absolute ablative formed with a passive past participle, a construction which, in spite of its passive form, assumed a clearly active meaning. Accordingly, as the nounal component was logically the object of the verb in participle, it is not surprising that it should also assume the form of the object. The CIL XIV 4768 (Thyl. A 5) quoted above is noteworthy, because its second absolute construction begins as an ablative (*concessoque*), but closes with an accusative *transitum*; the logical concept has been stronger in the mind of the writer than the grammatical concord. It would be tempting to see this process as the "birth" of the accusative absolute, as Fr. Horn actually does.³ I accept the objectness of the noun as a fundamental factor in the formation of the

¹ A parallel like this leads me to interpret *A* as a preposition rather than as a *praenomen*. Besides, the mention of an apparent relative among the apparently non-related donees of *itus ambitus* would provide a problem, too.

² In CIL VI 20973 the construction seems to be passive in meaning; cf. also the absolute ablatives in NSc. 1922, p.411, nr. 4 (Rome): *D. M. / Pantherillae fec. Dionysius / T. Ael. Aug. lib. Olympae ser. / coniug. opt. et sibi c. q. v. a. XXI / m. III d. VII loco donato a Sur/via Eulogia ito anbito dato / sine ulla controbersia.*

³ Zur Geschichte der absoluten Partizipialkonstruktionen im Lateinischen, Diss. Lund 1918, 83.

construction: but there are other factors involved which should not escape consideration, from the generalization of the accusative in other functions as well,¹ to the evidence we receive from the corresponding constructions in Romance languages.² Besides, the reasons which led someone to use an absolute accusative in an inscription might be quite in contrast to those which affected chroniclers like Gregorius Turonensis and Jordanes, who evidently used it as a definite device of style.

¹ The theory of M. Bonnet, *Le latin de Grégoire de Tours*, Paris 1890, 56lsq.

² Cf. D. Norberg, *Syntaktische Forschungen*, Uppsala 1943, 83sq.