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PRECATIO OF THE AUGURES AND SANCTITAS OF RIVERS

Cicero tells us that it was the Augurs' task to pray to Tiber and a number of rivers crossing through Rome and the surrounding area.

in augurum precatone Tiberinum, Spinonem, Almonem, Nodinum, alia propinquorum fluminum nomina videmus (Cicero, *de natura deorum*, III.20.52)¹.

Though this only extant reference to such a practice, his words can be considered reliable given that he was – as has been widely recognized – a priest of the College of Augurs. However, the brevity of the text poses a number of problems at the philological, exegetic, topographical and historical-religious levels.

It is therefore necessary, first and foremost, to identify the rivers named and pinpoint exactly where they were located in Rome, as aside from the Tiber they are all nothing more than a name. Then the nature, form and occasion for the prayer said by the Augurs must be reconstructed, and only then one can set about interpreting the gathered data from the standpoint of the history of religions.

The Spino and the Nodinus, the only reference to which is found in Cicero's words², were identified as two waterways that fed into the Velabrum Maius and Minus swamps³. This vast swampland was initially deep enough to enable it to be crossed by barge or a small boat⁴. A folk etymology connected its name to the verb *veho*⁵; though unacceptable from a linguistic standpoint, this seems significant from a historical-cultural one. The Spino and the Nodinus are thought to have been canalized when

¹ On the meaning of *precatio*, see F. Guillaumon, *Le vocabulaire de la prière dans les traités de Cicéron*, [in:] *Prier dans la Rome antique. Etudes lexicales*, ed. S. Roesch, Paris 2010, p. 53-55.

² E. Norden, *Aus Altrömischer Priesterbüchern*, Stuttgart–Leipzig 1939, p. 8.

³ H. Jordan, Ch. Hülsen, *Topographie der Stadt Rom im Altertum*, I. 11, Berlin 1878, p. 139; R. Lanciani, *Topografia di Roma Antica. I Commentarii di Frontino intorno le acque e gli acquedotti*, Memorie della Regia Accademia dei Lincei Scienze Morali, III serie, IV vol., 1881, p. 230-232; L. Borsari, *Topografia di Roma Antica*, Milano 1897, p. 9, 91; *contra* L. Richardson jr., *A New Topographical Dictionary of Ancient Rome*, Baltimore 1992, p. 18; on *Velabrum Maius* and *Minus*, see Varro *LL V*, 156.

⁴ Varro *LL V*, 43-44; Ovid. *Fast.* VI, 405; Plut. *Rom.* 5, 5; Prop. IV, 9, 5; *CIL VI*, 1035.

⁵ Varro *LL V*, 44; Plut. *Rom.* 5, 5, suggests an etymology from *vela*.

the Cloaca Maxima was built⁶. The area, however, continued to be subject to flooding when the level of the Tiber rose⁷. The entire reconstruction is a mere conjecture, since no proof exists⁸. While there is no evidence to show for it, there is at the same time nothing which can be said to disqualify it as a possibility either: thus, attempts must be made to create a consistent overall picture and assess the elements provided by Cicero's writings at the 'system' level and not in isolation.

For the other waterway cited there is not only the problem of topographical placement but also the reading of the text itself: the best manuscript reading reads *Anienem*. A.S. Pease, in his comments, reads *Anemonem*, a river which flowed in Cisalpine Gaul over 175 miles from Rome and which has been identified as the modern-day Lamone near Ravenna; so Pease distinguishes the *propinqua flumina* of Cicero's text from the four rivers previously mentioned⁹. In other words, the proximity to Roman territory would be valid only for the *flumina* whose name is omitted by Cicero. E. Norden holds a different view, finding more likely the reading *Almonem*¹⁰ put forward by Ursinus and numerous other editors. The Almo river was identified by Lanciani in the Acquataccio or Marrana della Caffarella; it has its sources between Via Latina and Via Appia, in the Caffarella Valley, and contains many veins¹¹, the main one of which was Acquisanta, well known for its effective therapeutic value. This proposal is not only conjectural but does not entirely resolve the issues posed by the text: the distance, compared with the Gaul river Anemo, is considerably reduced but not entirely eliminated: the Almo is still a river which flows outside of the urban area of Rome and drains into the Tiber 0,6 miles south of Porta Ostiense¹². Nevertheless, if we accept the amended form of *Almonem* in place of *Anemonem*, we gain historical-religious data of fundamental importance: the Almo was the sacred limit of Roman territory in the archaic era¹³. In

⁶ The *Cloaca Maxima* was the sewer system built in the seventh or sixth century BC to drain the marshes in the valleys between the hills. The *Cloaca Maxima* was a large canal which went under the *Argiletum* and the Forum Romanum; then, according to Plin. *NH* 36, 105, it joined up with seven streams carrying water from the Esquiline, Viminal and Quirinal hills and finally discharged into the Tiber. On the *Cloaca Maxima*, see J. Hopkins, *The Cloaca Maxima and the Monumental Manipulation of Water in Archaic Rome*, "The Waters of Rome" 2007, 4, 1-12, <http://www3.iath.virginia.edu/waters/Journal4Hopkins.pdf> [18.12.2013]; E. Gowers *The Anatomy of Rome from Capitol to Cloaca*, "Journal of Roman Studies" 1995, 85, p. 23-32.

⁷ G.S. Aldrete, *Floods of the Tiber in Ancient Rome*, Baltimore 2007; G. Raina, *Paludi e bonifiche del mondo antico. Saggio di archeologia e geografia*, Roma 1988.

⁸ H. Bauer, s.v. *Spino*, [in:] *Lexicon Topographicum Urbis Romae* (LTUR) IV, Roma 1999; L. Anselmino s.v. *Nodinus*, LTUR III, Roma 1996.

⁹ A.S. Pease, *M. Tulli Ciceronis De Natura Deorum*, II, Cambridge 1958, *ad loc.*, p. 1901 n., p. 1065, p. 1090-1091.

¹⁰ E. Norden, *op. cit.*, p. 8.

¹¹ R. Lanciani, *op. cit.*, p. 227.

¹² R. Pisani Sartorio, s.v. *Almo*, [in:] *LTUR Suburbium*, I, Roma 2001, p. 45-47.

¹³ In the water of Almo the statue of Magna Mater or Mater Idaea used to be washed, cf. Ov. *Fast.*

this way we shift from the naturalistic sphere to the cultural one and we have a valid element of comparison for the purposes of our study.

We then have only to examine the Tiber. In this case, the difficulties of analysis are of an entirely different sort: we are dealing with a polysemantic sign which takes on and expresses many elements that reflect its vital importance for the existence of Rome.

The Tiber is one of Italy's largest rivers, running 250 miles km from the Apennines, where its source is located, to the Tyrrhenian Sea, which it drains into. Like all large rivers, it was relatively easy to wade across in the upper part and more difficult to do so in its lower valleys, where it often formed swamps hindering its circulation. In the archaic period, as many authors of antiquity noted, this was the case with the Tiber in Rome. The lack of inclination of the terrain and the abundance of water due to the geological conformation of the territory led to stagnation in its surroundings, fostering the swamps recalled in many of the traditions connected with the proto-history of Rome: the bend of the river where the twins Romulus and Remus landed within their basket; the *Caprae palus* where Romulus disappeared; the *lacus Curtius*, where a young man immolated himself in order to ensure the eternity of the Urbs¹⁴.

The existence of an island, Tiber Island¹⁵ - the only one near the mouth of the river - may have been, Le Gall writes, a reason for a small city to arise there and would have been a strength from a defensive standpoint¹⁶. The growth of Rome is therefore to be attributed not only to the ability to exploit the advantage offered by its position but also to overcome the disadvantages arising from it¹⁷. The Tiber river was able to be sailed both up and down from the earliest antiquity: transport in the direction of the currents did not require any specific skills and could be achieved risk-free even in emergency situations. Countercurrent navigation was most likely practiced in the archaic era as well, as it would have posed neither excessive risk nor technical inconvenience. Coarelli collected several pieces of evidence to support the theory of an access point of merchant ships from the Tyrrhenian Sea at the *portus Tiberinus* just south of the *insula* in Roman proto-history; so he restored the image of an open and dynamic city from the earliest years of its existence¹⁸.

IV, 337-340; see D. Sabbatucci, *La religione di Roma antica, dal calendario festivo all'ordine cosmico*, Milano 1988, p. 150-151.

¹⁴ G.M. Annoscia, *Fonti e strutture per la conoscenza del sistema idrico di Roma nel Medioevo*, Roma 2007, p. 62.

¹⁵ M. Besnier, *L'Île Tiberine dans l'antiquité*, Paris 1902.

¹⁶ J. Le Gall, *Le Tibre, fleuve de Rome, dans l'antiquité*, Paris 1953, p. 46.

¹⁷ B. Campbell, *Rivers and the Power of Ancient Rome*, Chapel Hill 2012, p. 13-22.

¹⁸ F. Coarelli, *I santuari, il fiume, gli empori*, [in:] *Storia di Roma*, I, eds. A. Momigliano, A. Schiavone, Torino 1988, p. 146-148.

But the Tiber did not only unite: it also divided. For 150 miles in its long route to the sea, the river separated the territory of the Etruscans from that of the Umbrians and the Sabines, according to Pliny¹⁹. The Tiber as a line of demarcation was projected into the pre-urban period by Livy, who said that this river separated the Latins and the Etruscans even before Rome was founded²⁰. In the historical era, the Tiber was the northern limit of the *Latium Vetus*, while the eastern limit was marked by the course of one of its tributaries, the Anio²¹, whose confluence occurred at the Sabine city Antemnae²² (Forte Antenne). The foreign nature of the trans-Tiber territory is confirmed by a law of the XII Tables, the text of which is known of through Aulus Gellius²³: *Tertiis autem nundinis capite poenas dabant, aut trans Tiberim peregre venum ibant*. The possibility to sell an insolvent debtor on the other side of the Tiber is based on the juridical principle according to which a *civis* could not be a slave in the territory of his own city. Further corroboration is provided by the fact that the *trans Tiberim relegare* provision was always seen as shameful, even when it no longer had any repercussions at the practical level.

The Tiber's course as a border line unites at the functional level this large river with the small one Almo, thereby making it possible to formulate the hypothesis that the Tiber, Almo, Spino, Nodinus and other rivers that flowed near Rome were named in the Augures' *precatio* as elements marking the territory.

The idea of a river as a boundary is not an original one, as it has been documented in all ancient civilizations. Even the borders of the Earth were marked in the mythical geography of Ancient Greece by the river Okeanos. Roman civilization, however, worked harder than others to draw up the legal status of rivers and other watercourses, with many acting as the boundary line between private land holdings: this is the origin of the term '*rivalis*', which indicated the property owner living along a watercourse that vied for the water of the *rivus* with the owner of land on the other side²⁴.

Water borders were very important in augural law. According to an ancient prescription that fell into disuse at the end of the Republic, magistrates who led the army in war had to take the auspices every time they were to cross a river²⁵. This

¹⁹ Pl. *NH* III, 53-55; C. Ampolo, *Roma arcaica fra Latini ed Etruschi. Aspetti politici e sociali*, [in:] Quaderni di archeologia etrusco-italica 1987, p. 15.

²⁰ Liv. I, 3, 8.

²¹ T. Cornell, *The Beginnings of Rome. Italy and Rome from the Bronze Age to the Punic Wars*, London 1995, p. 48-49, p. 410, n. 1.

²² On this site, see S. Quilici Gigli, *Antemnae*, Roma 1978.

²³ Gell. *NAXX*, I, 47: *Tertiis autem nundinis capite poenas dabant, aut trans Tiberim peregre venum ibant*; on this law, see R. Stewart, *Public Office in Early Rome. Ritual Procedure and Political Practice*, Ann Arbor 1998, p. 185.

²⁴ J. Marouzeau, *Introduction au latin*, Paris 1941, p. 70.

²⁵ Cic. *DD* II, 76-77: *Bellicam rem administrari maiores nostri nisi auspicio noluerunt; quam multi*

particular case recalls a general provision according to which the interposition of any watercourse required another *auspicia*-taking ceremony. It was therefore prescribed that the magistrates should conduct an *auspicatio* before crossing a small watercourse, called *Petronia amnis*, which flowed in the *Campus Martius* near the *Saepta*, where the *comitia centuriata* and voting were held²⁶. The inobservance of this led to *vitium* in the procedure and had as a result the abdication of the magistrates elected²⁷. The specific *auspiciu*m taken for the crossing of rivers was called *peremne*²⁸, a term which is unquestionably archaic and should be put in relation and *in pendant* with another type of *auspiciu*m, the *auspiciu*m *pertermine*, which was taken on crossing from the *ager Romanus* to the *ager peregrinus*²⁹.

This leads us to the augural crux of the matter: distinguishing between the *genera agrorum*, i.e. the various types of territory, was a task the Augurs were entrusted with, according to Varro:

Ut nostri augures publici disserunt, agrorum sunt genera quinque: Romanus, Gabinus, peregrinus, hosticus, incertus. Romanus dictus unde Roma ab Romulo; Gabinus ab oppido Gabiis; peregrinus ager pacatus, qui extra Romanum et Gabinum, quod uno modo in his servantur auspicia; dictus peregrinus a pergendo, id est a progrediendo: eo enim ex agro Romano primum progrediebantur: quocirca Gabinus quoque peregrinus, sed quod auspicia habet singularia, ab reliquo discretus; hosticus dictus ab hostibus; incertus is, qui de his quattuor qui sit ignoratur.

As our State Augurs set forth," there are five kinds of fields: Roman, Gabine, peregrine, hostic, uncertain. 'Roman' field-land is so called from Romulus, from whom Rome got its name. 'Gabine' is named from the town Gabii. The 'peregrine' is field-land won in war and reduced to peace, which is apart from the Roman and the Gabine, because in these latter the auspices are observed in one uniform manner: 'peregrine' is named from *pergere* 'to go ahead', that is, from *progredi* 'to advance'; for into it their first advance was made out of the Roman field-land. By the same reasoning, the Gabine also is peregrine, but because it has auspices of its own special sort it is held separate from

anni sunt, cum bella a proconsulibus et a propraetoribus administrantur, qui auspicia non habent? Itaque nec amnis transeunt auspicato, nec tripudio auspicantur; Serv. ad Aen. IX, 24. A. von Domaszewski, Abhandlungen Zur Römischen Religion, Leipzig–Berlin 1909, p. 218–226. Fest. 296 L: Petronia amnis est in Tiberim profluens, quam magistratus auspicato transeunt, cum in campo quid agere volunt; quod genus auspici peremne vocatur; A. Dalla Rosa, Dominating the Auspices. Augustus, Augury and the Proconsuls, [in:] Priest and State in the Roman World, eds. J.H. Richardson, F. Santangelo, Stuttgart 2011, p. 250–253; J. Rüpke, Domi Militiae. Die religiöse Konstruktion des Krieges in Rom, Stuttgart 1990, p. 34–39.

²⁶ Fest. 296 L.; cf. 45 L. The *Petronia amnis* is a crux of topography of Ancient Rome, see F. Coarelli, *Il campo Marzio: dalle origini alla fine della repubblica*, Roma 1997, p. 148–153; *idem*, s.v. *Petronia amnis*, *LTUR* IV, Roma 1999, p. 81–82.

²⁷ Cic. *ND* II, 10–11; R. Stewart, *op. cit.*, p. 131.

²⁸ Fest. 284 L: *peremne dicitur auspicari, qui amnem aut aquam, quae ex sacro oritur, transit. On the auspicia peremnia* see P. Rivero, *Muros de aire: auspicia, imperium y delimitación del espacio sagrado romano en tierras bárbaras*, [in:] *Les espaces clos dans l'urbanisme et l'architecture en Gaule romaine et dans les régions voisines*, ed. R. Bedon, Y. Liébert y H. Mavéraud, "Caesarodunum" XL, 2006, p. 397–406; L.A. Holland, *Janus and the Bridge*, Rome 1961, p. 1–20.

²⁹ M. Victor., *AG* IV, 42: *pertermine dicitur auspiciu*m *quod fit cum de fine Romano in agrum peregrinum transgrediuntur*.

the rest. 'Hostic' is named from the *hostes* 'enemies'. 'Uncertain' field-land is that of which it is not known to which of these four classes it belongs (tr. R.G. Kent) .

Within this context we have to apply also Cicero's sentence: "Interpretes autem Iovis optumi maximi, publici augures, [...] urbemque et agros et templa liberata et effata habento"³⁰.

The interpretation of this passage is controversial³¹. Linderski drew to the attention of scholars the fact that Cicero spoke of *urbs* and *agri*: since the city was surrounded by a single type of *ager*, the *ager effatus*³², the correct interpretation of the sentence requires that the *Augures* were interested in maintaining permanently free and delimited not only the *pomerium*, but also the lines separating the different categories of *agri* from each other³³. Therefore, not the whole territory but only the *fines* had to be kept free and delimited³⁴ and this led to the limits being clearly indicated and easily identifiable³⁵. Thus we can consider that there was then a *terminatio* of the *ager*, at the points where the border was indicated by a natural element, and no natural element was better suited to mark a border than a watercourse. By combining the data, we can surmise that within the doctrine and practice of the Augurs, preserving the memory of the limits of religious demarcation of Roman territory was of fundamental importance, in order to avoid committing mistakes in carrying out auspicial rituals. *Flumina* and *termini* thus must have constituted an integrated system of religious mapping of territory, a mapping entrusted to the Augurs, who safeguarded the memory of it and who looked after, so to speak, its preservation³⁶.

This operation, we add, must have been required especially sections where were borders represented by a riverbank, since a watercourse is a live, dynamic organism in constant transformation. The seasonal regime, the flooding and the low waters, and especially the sedimentation of the alluvial deposits could modify the appearance and the course even over just a few decades. A riverbank is a mobile element, subject to

³⁰ Cic. *de leg.* II, 20-21.

³¹ P. Catalano, *Aspetti spaziali del sistema giuridico-religioso romano. Mundus, templum, urbs, ager, Latium, Italia*, ANWR II.16.1, Berlin–New York 1978, p. 491-506; *idem*, *Contributi allo studio del diritto augurale*, Torino 1960, p. 305-306; D.J. Gargola, *Lands, Laws, & Gods. Magistrates & Ceremony in the Regulation of Public Lands in Republican Rome*, Chapel Hill–London 1995, p. 25-31; A. Magdelain, *Le pomerium archaïque et le mundus*, "Revue des Etudes Latines" 1976, 54, p. 73-75.

³² Gell. *NA* XIII, 14, 1; Serv. *ad Aen.* 6,197.

³³ J. Linderski, *The augural Law*, ANRW II 16,3, Berlin–New York 1986, p. 2157, n. 31.

³⁴ *Ibidem*.

³⁵ H. Dahlmann, *Zu Varros antiquarischen-historischen Werken, besonders den Antiquitates Rerum Humanarum et Divinarum*, [in:] *Atti del Congresso Internazionale di Studi Varroniani*, I, Rieti 1976, p. 170-172.

³⁶ J. Linderski, *op. cit.*, p. 2157, n. 31. Varro *LL* V, 33.

constant variations; Roman jurisprudence put forth efforts to give as exact a definition as possible, in order to guarantee rights and prevent abuse.

Ripa autem ita recte definietur id, quod flumen continet naturalem rigorem cursus sui tenens: ceterum si quando vel imbris vel mari vel qua alia ratione ad tempus excrevit, ripas non mutat [A bank is properly defined to be what contains a river when it pursues its natural course, for it does not change its banks on account of rain, the tide, or for any other reason]³⁷.

The procedure followed in this ceremony is unknown, but perhaps it is possible that Ennius' verse "Te que pater Tiberine tuo cum flumine sancto"³⁸ taken up by Virgil "tuque, o Thybri tuo genitor cum flumine sancto"³⁹ has to be associated to this context.

It is the merit of Huguette Fugier to have drawn scholars' attention to these two formulas and to have theorized the existence of a single source, i. e. the text of an ancient sacerdotal prayer⁴⁰. We have already noted, however, that in this way a general origin is identified but one which lacks context, since it does not refer to any specific religious area⁴¹. Nevertheless, we believe that a more detailed study makes it possible to attribute it to an augural prayer⁴². As can be noted, in Ennius the invocation is addressed to *Tiberinus Pater*, in Virgil to *Thybris genitor*: these two expressions can be considered equivalent, since – as it was highlighted by Santini⁴³ – the characters of the *Aeneid* call the Tiber Thybris throughout and never Tiber or Tiberinus (*pater*). On the other hand, the *cum flumine sancto* clause is identical in these two authors: only this clause can plausibly be connected with the prayer. There was a distinction between the river in its naturalistic aspect called Tiber and the divinity Tiberinus Pater that expressed and represented it in religious terms. As can be deduced from the divergence of names, the god was not simply the divinized abstraction of the former: the Pater epiclesis, used frugally by Romans⁴⁴, indicates a complete anthropomorphism and the character of an ancestor god.

³⁷ Dig. 43.12.1.5 (Ulpianus 68 ad ed.); M. Fiorentini, *Fiumi e mari nell'esperienza giuridica romana. Profili di tutela processuale e di inquadramento sistematico*, Milano 2003.

³⁸ Enn. Ann. fr. I, 54.

³⁹ Verg. Aen. VIII, 72.

⁴⁰ H. Fugier, *Recherches sur l'expression du sacré dans la langue latine*, Paris 1963, p. 286.

⁴¹ C. Santi, *Alle radici del sacro. Lessico e formule di Roma antica*, Roma 2004, p. 211.

⁴² It is inconceivable that the Tiber was invoked in that form inside the *indigitamenta* of the Pontifices: Servius has preserved the text of a prayer that diverges from Ennius's verse significantly: Serv. ad Aen. 8, 72: "adesto, Tiberine, cum tuis undis".

⁴³ C. Santini, *Il fiume come codice locale a più funzioni. Varrone – Virgilio – Plinio il Vecchio*, [in:] *Varrone e la geografia antica. Atti del Convegno*, Rieti 1993, p. 75; on the ancient names of the Tiber river, see C. Beretta, *I nomi dei fiumi, dei monti, dei siti: strutture linguistiche preistoriche. The Names of Rivers, Mounts, Sites. Prehistoric Linguistic Structures*, Milano 2003, p. 158-160; A. Momigliano, *Thybris Pater*, [in:] *idem, Roma arcaica*, Firenze 1989, p. 347-380.

⁴⁴ C. Santi, *op. cit.*, p. 209-210.

The Romans reconstructed a complete genealogy for him. Son of Ianus and Camena⁴⁵ and husband of the enigmatic Gaia, in the Aeneid he was instead the spouse of Mantus and father of the hero Ocnus, who fought in the ranks of Etruscan troops⁴⁶.

Tiberinus was not only a mythical figure⁴⁷. He was also likely to have been honored in the Portunalia festival, which therefore was also known as Tiberinalia, and *in insula* a sacrifice was made in his name⁴⁸. The features of this worship, introduced by Titus Tatius according to the tradition, are unknown, but the cultural links shown by the sacral topography of it underscore unequivocally its relationship with Ianus and Portunus, both deities connected with crossings and accesses.

In Ennius and Virgil's verses, the Pater epiclesis is referred to the god and the adjective *sanctum* to the *flumen*, showing that religion was careful to keep the two aspects separate: the divine figure and its site. Accordingly, the title *sanctum* is attributed only to the river and not to the god that resides in it. This also shows the territorial demarcation role that the Tiber served. In the archaic period, the adjective *sanctus* was not usually attributed to a deity⁴⁹: in the rare cases documented, it has a decorative value or is following the Greek usage.

On the other hand, at the religious-juridical level, some places were considered *sancti*, such as temples, walls and gates, as well as boundary stones and all borders⁵⁰. To these *res* the *civitas* provided a complete protection, punishing any action causing or harm or inconvenience⁵¹. The *res sanctae* were in some way part of the *ius divinum* and were *res nullius*⁵². The protection on these sections of space, as was persuasively argued by Catalano, derived from the *inauguratio*, to which were subjected the *loci sancti*⁵³ (wherein the inherent quality of this type of *loci* is known in Latin as *sanctitas*⁵⁴). Rivers were *res communes* according to the people's law⁵⁵ and *publicae* according

⁴⁵ Plut. *QR* 22; Serv. *ad Aen.* VIII, 330.

⁴⁶ Verg. *Aen.* X, 198-203.

⁴⁷ J. Le Gall, *op. cit.*

⁴⁸ F. Sabbatucci, *op. cit.*, p. 272.

⁴⁹ G. Dumézil, *La Religion Romaine Archaïque*, Paris 1974, p. 135.

⁵⁰ Dig. 43, 6, 2 (Hermog. 3 iur. epit.): *in muris itemque portis et aliis sanctis locis aliquid facere, ex quo damnum aut incommodum irrogeretur, non permittitur.*

⁵¹ Dig. 1.8.8.pr. (Marcian. 4 regul.): *Sanctus est, quod ab iniuria hominum defensum atque munus est.*

⁵² Gai. 2, 9: *Quod autem divini iuris est, id nullius in bonis est*; Dig. 1.8.8 (Marcian. 4 regul.): *Sacrae res et religiosae et sanctae in nullius bonis sunt.*

⁵³ P. Catalano, *Contributi allo studio...*, p. 317-319.

⁵⁴ C. Santi, *op. cit.*, p. 175-180.

⁵⁵ Dig. 1.8.4.1 (Marcian. 3 inst.): *Sed flumina paene omnia et portus publica sunt*; Dig. 1.8.5 pr. (Gaius 2 rer. cott.): *Riparum usus publicus est iure gentium sicut ipsius fluminis. itaque navem ad eas appellere, funes ex arboribus ibi natis religare, retia siccare et ex mare reducere, onus aliquid in his reponere*

to natural law⁵⁶; they became *sancti* when they took on the role of border. If we go back to Ennius and Virgil's verses, we see that *sanctum* is referred to the *flumen* and not the god, since the river and not the god acted as a limit. Even in the *indigita-menta* we find the same indication: the invocation "adepto, Tiberine, cum tuis undis (be present Tiberinus, you and your waves)"⁵⁷ brought together the double nature of the god and the river. In these terms, and only in these terms, one can speak of the *sanctitas* of rivers: not residual traces of a phase of primordial fetishism, to which the expression "sacredness of the waters"⁵⁸ seems to allude too very often, but the expression of a juridical-religious idea of Roman origins according to which a border was part of the *res sanctae*. Every watercourse, therefore, if it was an element of territorial demarcation, was granted special protection but no worship in and of itself, unless a *deus loci* had established its *magna domus* in it.

Claudia Santi

„PRECATIO" AUGURÓW I „SANCTITAS" RZEK

Streszczenie

Zadaniem kolegium *augures* było zanoszenie modłów do rzeki Tyber i innych rzek przepływających przez Rzym i okoliczne tereny. Jeżeli rzeki te tworzyły system, to moim zdaniem należy je traktować jako granice. Można więc uznać, że *precatio* kierowane w stronę rzek przez augurów stanowiło okresowe uznanie granic *agri* jako wstępny akt do późniejszej ceremonii *liberatio* i *effatio*. Na poziomie prawnoreligijnym wszystkie granice miały charakter sakralny i *civitas* sprawowała nad nimi kompletną ochronę, chroniąc je przed jakimikolwiek czynnościami mogącymi spowodować szkodę. I w zasadzie tylko w liminalnym znaczeniu rzek możemy mówić o ich sakralnym charakterze.

cuilibet liberum est, sicuti per ipsum flumen navigare. sed proprietates illorum est, quorum praediis haerent: qua de causa arbores quoque in his natae eorundem sunt.

⁵⁶ Dig. 1.8.2.1 (Marcian. 3 inst.): *Et quidem naturali iure omnium communia sunt illa: aer, aqua profluens, et mare, et per hoc litora maris.*

⁵⁷ Serv. ad Aen. 8, 72.

⁵⁸ See e.g. A. Seppilli, *Sacralità dell'acqua e sacrilegio dei ponti*, Palermo 1990.

