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ALIENATION OF PUBLIC AND SACRED LANDED PROPERTIES IN GREEK CITIES: A RESPONSE TO LÉOPOLD MIGEOTTE

According to Aristotle's Politics (1267b33-37), in his tripartite scheme of the αρίστη πολιτεία Hippodamus of Miletus divided the civic territory into "three parts, one sacred, one public, and one private: sacred land to supply the customary offerings to the gods, common land to provide the warrior class with food, and the private land to be owned by the farmers" (διήρει δ' εἰς τρία μέρη τὴν γώραν, τὴν μὲν ἱερὰν τὴν δὲ δημοσίαν τὴν δ' ἰδίαν· ὅθεν μὲν τὰ νομιζόμενα ποιήσουσι πρὸς τοὺς θεούς, ἱεράν, ἀφ' ὧν δ' οἱ προσπολεμοῦντες βιώσονται, κοινήν, τὴν δὲ τῶν γεωργῶν ἰδίαν). It is agreed that in expounding his theoretical ideas Hippodamus was not in this respect formulating new concepts but merely codifying preexisting practices. In fact, as shown by Léopold Migeotte in a variety of papers, some presented at earlier Symposia, the distinction between public and sacred revenues, and more generally between secular and sacred moneys, was conceptually and operationally one of the fundamental, and ubiquitous, tenets of Greek financial administration. Based on these premises, N. Papazarkadas has recently provided a systematic analysis of the administration of sacred and public land, at both the central and local level, in Classical Athens.²

Narrowing the scope of his investigation, in his fine paper Migeotte has focused on a specific aspect of this broader topic, namely patterns in the alienation of real properties, both sacred and public. Although we tend to assume that Greek cities primarily aimed to preserve the integrity of their public and sacred landed assets—and on many occasions they indeed had to design procedures to regain them following encroachment and illegal seizure³—Migeotte's analysis has the merit of showing that this was not always necessarily the case and that public properties in

Migeotte 2006a (with the observations of Dreher 2006), 2006b, 2009 and 2010. Cf. also Faraguna 2012d.

Papazarkadas 2011. See, however, also Rousset 2013, providing an in-depth discussion of Papazarkadas' book. Rousset argues against a clear-cut distinction between sacred and public land and concludes that "[w]e should probably admit that there existed a relatively varied picture, in which there was room both for cases of separateness between the two spheres, for instance in financial matters, and for cases where sacred property was included within public property" (21).

³ Corsaro 1990.

particular did not represent a fixed, unchangeable entity but could be enlarged as a result of confiscations and gifts, or reduced through regular or occasional public sales. Depending on the policies implemented by each city, different patterns in public land tenure thus emerge.

Another important distinction Migeotte has introduced concerns the different categories of public and sacred real properties. Functionally, they are not all on the same level and cannot therefore be considered together as a coherent group. One has in particular to distinguish between 'infrastructure', i.e., spaces and buildings used for core political and religious activities (*agorai*, monumental buildings, walls and fortifications, sanctuaries, etc.)⁴—in Migeotte's words, the "domaine public"—and revenue-generating possessions such as land, *eschatiai*, hilly and mountainous areas used for grazing and gathering firewood, quarries, ⁵ and mines—the "domaine privé." ⁶ Alienation, permanent or temporary, in normal circumstances only concerned this second category of realties.

With his typical document-based approach, Migeotte considers three different cases where public or sacred properties could be sold or offered as security. The first must be regarded as the exception rather than the rule and concerns the sale of τεμένη belonging to the gods. This was in all likelihood a very rare event, as is for instance shown by [Arist.] *Rhet. ad Alex.* 1425b19–21, where it is suggested, with regard to πόρος χρημάτων, that one way of increasing revenues was to consider whether there were some public properties that were neglected καὶ μήτε πρόσοδον ποιεῖ μήτε τοῖς θεοῖς ἐξαίρετόν ἐστιν, the implication being that the sale of sacred real properties was hardly an option to be considered. As far as inscriptions are concerned, it is documented by an important fragmentary text from Philippi (*SEG* 38,658) consisting of a list of sacred properties of Ares, the Heroes, Poseidon, the deified king Philip⁷ (and presumably other divinities) sold at auction. Migeotte offers a new, improved reading of the inscription showing that the ἐπώνιον collected for each sale was a 2% tax irrespective of the value of the property. This apparently sets Philippi apart from Athens, where the sales tax was calculated not as a

⁴ For a review of public properties in Greek cities see Lewis 1990. Public 'political' buildings: Hansen-Fischer Hansen 1994. *Agorai*: Chankowski-Karvonis 2012. Cf. also Hansen-Nielsen 2004, pp. 138–143.

The prevailing view is that quarries were normally owned publicly by corporate entities: the *polis*, subdivisions of the state, and sanctuaries; cf. Langdon 2000, pp. 244–245; Lolos 2002; Papazarkadas 2011, pp. 229–230. 'Private' ownership is now argued by Flament 2013.

⁶ A more articulated classification was suggested by Lambert 1997, pp. 234–235, adding, at least at deme level, a third category, namely 'public service' properties, i.e., properties owned by the group for the common use and benefit of its members, such as threshing floors, theatres, *agorai*, *eschatiai*, etc. Cf. also Faraguna 2012a, p. 176, adding 'cemeteries' to the list.

On the ruler cult in Macedonia see now Mari 2008.

percentage but on a sliding scale.⁸ The only comparable documents are the Athenian *Rationes Centesimarum*, where, however, only few, if any, of the properties sold were sacred (see below).⁹

The second case is represented by the sale of properties confiscated either from public debtors or as a consequence of exiles and political events. The inscriptions from Athens, Halicarnassus, Mylasa and Iasos listed by Migeotte are all well known. 10 Another item, DGE³ 688 (= Koerner 1993, no. 62), sides B, C and D, including registrations of confiscated estates and houses (τὰς γέας καὶ τὰς οἰκί<ε>α[ς] ἐπρίαντο) publicly sold in fifth-century Chios, can in my opinion be added to the list and possibly is the earliest text of the series. 11 It needs to be stressed that the decision for a polis to alienate confiscated properties and regularly avoid managing cultivable land often resulted from a precise strategy. Athens is a case in point. In Attica profitable communal estates were owned and administered by demes and not by the polis. N. Papazarkadas has in his recent book explored the reasons for the apparent paradox that, despite its fully developed democratic institutions, Athens had no publicly owned landholdings. 12 Other cities, however, behaved differently. Migeotte quotes as examples the cases of Dikaia, on the Chalkidic Peninsula, in a recently published inscription concerning measures for civic reconciliation and amnesty (SEG 57,576, 1l. 18-20, 32-34, 42-45), Delphi, where together with the ἱερὰ χώρα Apollo was the owner of other landholdings that were leased out and provided revenues for the Amphiktyony, and Eretria. Further evidence is offered by a still unpublished honorary decree from Argos, whose contents were presented by Ch. Kritzas more than twenty years ago (SEG 41,282; cf. also 284). It refers to the ἱερὰ καὶ δαμοσία χώρα which had been divided into 'fields' (γύαι) and generated rents (δωτίναι) that were paid into the sacred and public treasuries. ¹³ More recently, Kritzas has suggested that Athena's treasury, for which we now possess an archive of ca. 134 (again still unpublished) bronze tablets recording financial transactions, acted as the state treasury of Argos. The incomes from the leases of the sacred and public land were to a large extent the source of its funds.¹⁴

⁸ Hallof 1990, pp. 408–410: "abgestufte Kaufsteuer." It appears that the tax was in fact in most cases computed at 1%; cf. also Stroud 1998, pp. 61–62.

For the view that some of the land sold in the *Rationes Centesimarum* was sacred see Horster 2004, pp. 158–159. The question is left open by Papazarkadas 2011, pp. 198–200, who allows for the possibility that "some associations of orgeones did own secular, and therefore disposable property." Cf. also Rousset 2013, pp. 10–12.

For a comprehensive study of these texts see now Delrieux 2013.

Faraguna 2005; Delrieux 2013, pp. 228–231. Cf. also Matthaiou 2011, pp. 13–34, arguing that the text on all four sides (A–D) is a single inscription but accepting that the properties sold on C and D had been confiscated.

¹² Papazarkadas 2011, pp. 212–236.

Kritzas 1992; cf. Piérart 1997, pp. 332–333. For the original meaning of δωτίνη cf. e.g. Hom. II. 9.149–156 (= 9.291–297).

¹⁴ Kritzas 2006, pp. 408–411. Cf. also *SEG* 54,427.

We must therefore reckon with the possibility that, unlike Athens, some cities possessed large tracts of cultivable public land and benefitted from rents and leases. Similarly, we can assume that the cultivated land resulting from the draining of a marsh (λ iμνη) contracted out to Chairephanes in Eretria at the end of the fourth century (IG XII, 9, 191) was public property. The Moreover, especially during the archaic period, Greek *poleis* often kept land in reserve: the distribution of τὰ ἀπότομα καὶ τὰ δημόσια of three specific districts and the κοῖλοι μόροι in the τεθμός inscribed on the 'Bronze Pappadakis' provide an interesting example to this effect (IG IX 1^2 , 3, 609; Koerner 1993, no. 47).

The last, fascinating case concerns public properties as security in credit contracts. They included not only precious movable objects but also land and even theatres, *gymnasia*, *stoai*, walls and harbours, although, as convincingly argued by Migeotte elsewhere, if the city failed to pay its debts and defaulted, creditors did not acquire ownership of the secured properties but the right to draw revenue from them, in other words, in Greek terms, they did not obtain the π όροι but only the π ρόσοδοι. 17

Having thus highlighted the main points raised by Migeotte, in the observations that follow I would like to concentrate on a group of documents briefly but effectively examined in his paper, the Athenian Rationes Centesimarum. Their interest stems from the fact they can be used as a valuable heuristic tool to define the notion of public property in Athens and explore in what form and to what extent the polis retained control of those landholdings that were neither sacred nor private. To quote an example, in his recent book on La cité des réseaux P. Ismard argues, among other things on the basis of these epigraphic documents, that in Athens public land was administered by corporate groups ("associations" in his words) such as demes, komai, phratries, gene, orgeones that acted as "their only managers" ("les seules gestionnaires"). 18 As a result, we are not justified in positing the existence of public property owned by the city conceived as a "subject of law" ("[d]ans l'Athènes classique, rien ne permet d'accréditer l'existence d'une propriété publique par une cité conçue comme sujet du droit"). 19 In his view, it is therefore more correct to speak of 'collective' property as the notion of 'public', demosion, is not clearly defined but is diffracted, dispersed, and operates at different levels within the corporate groups. Public property was nothing more than an ensemble of the

¹⁵ On this inscription see Fantasia 1999, pp. 100–107; Knoepfler 2001.

¹⁶ Ruzé 1998.

¹⁷ Migeotte 1980.

¹⁸ Ismard 2010, pp. 167–185. See the reviews of Bubelis 2012 and Eidinow 2012.

Ismard 2010, p. 183. Cf. also p. 181: "Rien ne permet notamment d'y voire un patrimoine dont la cite aurait été le propriétaire en droit, plutôt que des biens d'usage collectif dont les instances civiques auraient été les simples gestionnaires. De manière générale, la distinction entre patrimoine public et biens d'usage public n'a probablement jamais été explicitée en droit athénien."

property held by various associations. ²⁰ As Ismard concludes at the end of his book, "la polis ... n'est ... une instance surplombante à l'égard de l'ensemble des associations qui composent la société athénienne; ... elle est l'ensemble des intervalles dont le propre est de lier et séparer, de joindre et disjoindre une multiplicité de communautés."²¹

Ismard's overall argument is too complex to be dealt with here and I would like to scrutinize it only in so far as it concerns the Rationes Centesimarum. These inscriptions record the rather astounding operation of a massive sale of land and houses belonging to corporate groups between ca. 340 and 320 B.C. The 17 fragments have been recomposed as part of four stelai, the first two recording sales on the part of demes and komai, while stelai 3 and 4 include phratries and their subgroups (gene and orgeones). 22 Lambert, who has reedited the texts, believes that the stelai originally recorded 400-600 sales for a total value of 300 talents. ²³ The transactions must have been coordinated centrally as a 1% tax, an ἑκατοστή on each sale was paid into the treasury of Athena and the Other Gods (most of the fragments came from the Acropolis where the stelai were presumably set up). The sales were therefore clearly of a unique character. The financial stratagem described by [Arist.] Oec. 1346b13-26, for instance, only partially resembles the operation of the Rationes Centesimarum because the θίασοι and πάτραι involved were compensated for the loss of their land with other public properties in the city.²⁴ This does not seem to be the case for the corporate groups in our inscriptions.

Whether we stress the economic or euergetic aspects of the sales programme, ²⁵ the question remains on what legal ground the central authorities, namely the Athenian assembly, could impose such a massive sales operation on a large number of corporate groups. An answer is not easy because we do not know who was the beneficiary of the proceeds of the sales, whether they went to the *polis* and were allocated to some specific fund or purpose, or whether only the ἑκατοστή was paid

For a similar approach cf. Karabélias 2005, esp. pp. 189–200: "Sous le vocable Cité nous comprenons évidemment les divers dèmes ainsi que les divers temples, dont les propriétés sont englobées dans la communauté civique."

²¹ Ismard 2010, p. 411.

²² Lambert 1997, pp. 183–206, 219–225 (cf. SEG 48,149).

Lambert 1997, pp. 257–263, has conclusively shown that the inscriptions recorded sales and not leases. Ismard 2010, pp. 174–179, has now suggested that the properties listed on the four stelai were not sold but given by the city as security against loans from private individuals (cf. [Plut.] *Mor.* 841d and 852b, with Faraguna 2012b, pp. 355–356).

²⁴ On this stratagem attributed to Byzantion see Migeotte 2006b.

²⁵ For the economic aspects cf. Lambert 1997, pp. 280–291. On the purchasers as members of the wealthy class driven by an euergetic *ethos* and by *philotimia* see Chankowski 1999, pp. 368–369; Ismard 2010, p. 172, and Migeotte in his paper, drawing a parallel with public subscriptions.

into the sacred treasury and the selling groups received the other 99% of the price and managed it as a part of their budget.²⁶

If we make an attempt to reconstruct the concrete context into which the sales transactions must be placed, demes, as the subunits of the polis on which information is more plentiful, are the most promising ground to explore. By the fourth century, demes already had well-defined boundaries, as shown by the rupestrial opou which have been found in increasing numbers all over Attica. 27 As local, 'territorial' communities, demes benefitted from a variety of resources: agricultural land, eschatiai, houses, quarries, theatres, 28 They rented sacred properties and drew incomes which were then used for cultic purposes; they also owned non-sacral properties, including not only cultivable landholdings (IG II² 2497) but also poor-quality land like the $\Phi \epsilon \lambda \lambda \epsilon i c$ leased in IG II² 2492²⁹ and pastures (ἐννόμια), as shown by IG II² 1196.³⁰ The last point is of particular significance since it is generally maintained that the properties sold in the *Rationes* Centesimarum consisted of marginal, often unproductive land. In the lease document concerning the Aixonian $\Phi \varepsilon \lambda \lambda \varepsilon i \zeta$ there is moreover a clause barring the deme from selling the land before the forty-year lease had expired. It was thus not unconceivable for a deme, in the same way as for a polis, to dispose of some of its real properties.

In the light of this evidence, it can be surmised, as suggested by Migeotte, that, prompted by a law or a decree, each individual deme carried out a comprehensive survey of the landed assets it owned, in particular of the unproductive or idle ones, and then proceeded to sell a number of them generally to some of its wealthier members. S.D. Lambert and N. Papazarkadas have, however suggested an alternative explanation, namely that we should distinguish between two categories of non-sacral land administered by demes within their territory: the landed estates that belonged to the deme and were leased out to provide steady revenues, on the one hand, and communal properties, sometimes labelled as $\delta\eta\mu\dot{\delta}\sigma\iota\alpha$ in the $\dot{\epsilon}\kappa\alpha\tau\sigma\sigma\dot{\tau}\dot{\eta}$ -documents, which were as a rule located in marginal, non-agricultural areas and were open to common use for grazing and gathering wood, on the other. In particular, in Lambert's and Papazarkadas' view, the role of demes with regard to this type of properties was only that of agents, while the *polis* retained the last word over their administration, as reflected in the *Rationes Centesimarum*. ³¹ According to

²⁶ Lambert 1997, pp. 278–280, and Ismard 2010, p. 174, argue for the first option. Papazarkadas 2011, pp. 235–236, although following Lambert, is more cautious (at p. 203, however, he seems inclined to accept the other alternative).

²⁷ Papazarkadas 2011, pp. 156–160, with an updated review of the *horoi*.

²⁸ Papazarkadas 2011, pp. 111–162.

²⁹ Krasilnikoff 2008.

On this document see Papazarkadas 2007, pp. 160–166, with a new edition and excellent commentary.

³¹ Lambert 1997, pp. 234–240; Papazarkadas 2011, pp. 227–236.

Papazarkadas, in conclusion, "public realty did exist in Classical Athens ... but it consisted of landed zones in mainly marginal areas, used, if at all, for the common benefit of members of the political community." It was this marginal, unoccupied land, over which the *polis* notionally maintained some sort of control, that constituted Athens' public land. On the basis of a much later decree its existence can moreover be traced down to the Augustan period (cf. τὰ ὅρη τὰ δημόσια and αἱ δημοτελεῖς ἐσχατιαί which were to be restored and left open for grazing and woodgathering in IG II² 1035, as reedited in SEG 26,121, II. 21–22).³³

I am not sure what can be made of this hypothesis. My first reaction was that the distinction it makes is too subtle and speculative, but I also find it intriguing because it could for instance explain Solon's reference to ἱερὰ καὶ δημόσια κτέανα rapaciously "seized" by the δήμου ἡγεμόνες in fr. 3 G.-P. and confirm that the agrarian crisis in early sixth-century Athens revolved around access to, and the use of common land. ³⁴

Leaving this question aside, it seems to me that both possible explanations offered for the sales of the *Rationes Centesimarum* tend to weaken (if not undermine) Ismard's network theory on the nature of the *polis*. Whether demes were selling their own land or unoccupied 'public' land, the *polis* was to a remarkable degree enforcing its role as "the proprietor in chief of all landed assets within its boundaries." This becomes even more apparent, and more striking, when we consider that the selling agents included not only 'constitutional' subunits like the demes (and their subdivisions, the $\kappa \hat{\omega} \mu \alpha \iota$) but also 'non-constitutional' associations such as phratries and their subgroups. ³⁶

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³² Papazarkadas 2011, p. 235.

³³ Culley 1977, pp. 287–291. On the inscription see also Schmalz 2007–2008 and 2009, pp. 10–11; Rousset 2013, p. 7.

This was the theory proposed by Cassola 1964, and more recently revived by Rihll 1991 and van Wees 1999. For a critical review of recent works on Solon's economic reforms see Faraguna 2012c.

³⁵ Burford 1993, p. 16.

³⁶ The definition of 'constitutional' and 'non-constitutional' groups is taken from Papazarkadas 2011.

- Chankowski 1999: V. Chankowski, review of Lambert 1997, «Topoi» 9 (1999), pp. 365–370.
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